

WORKING DRAFT

***HAYS COUNTY
SUBDIVISION AND DEVELOPMENT REGULATIONS***

TABLE OF CONTENTS

CHAPTER 701 – DEVELOPMENT REGULATIONS IN GENERAL 1

Sub-Chapter §1 - Preamble and Purpose 1

 §1.01 Preamble and Purpose..... 1

 §1.02 Findings..... 1

 §1.03 Declaration..... 2

Sub-Chapter §2 - Definitions 2

Sub-Chapter §3 - Enforcement and Penalties 5

 §3.01 Category of Offense..... 5

 §3.02 Enforcement Actions 5

 §3.03 Enforcement of Plat Notes 5

 §3.04 Severability 6

Sub-Chapter §4 - Variances 6

 §4.01 Criteria for Variance 6

 §4.02 Application Materials..... 6

 §4.03 Discretion to Grant Variances..... 6

Sub-Chapter §5 - Delegation of Authority..... 7

 §5.01 Responsible Department 7

 §5.02 Delegation of Authority 7

Sub-Chapter §6 - Outstanding Tax Liabilities 7

 §6.01 Applicant Requirements..... 7

 §6.02 Property Requirements..... 7

 §6.03 Documentation of Tax Status..... 7

 §6.04 Suspension of Processing..... 7

Sub-Chapter §7 - General Application Procedures..... 7

 §7.01 Application Forms 7

 §7.02 Representations and Certifications 8

 §7.03 Supplemental Information 8

 §7.04 Application Fees 9

 §7.05 Administrative Review 9

 §7.06 Technical Review..... 10

 §7.07 Combined Administrative and Technical Review 10

Sub-Chapter §8 - General Public Notice and Involvement Requirements 10

 §8.01 Notice Required 10

 §8.02 Documentation 10

 §8.03 Posted Notice 10

 §8.04 Written Notice..... 12

 §8.05 Identification of Affected Political Subdivisions..... 12

 §8.06 Identification of Proximate Property Owners 12

 §8.07 Delivery of Written Notice 13

 §8.08 Published Notice 13

 §8.09 Additional Public Notice by the County..... 13

 §8.10 Public Meetings 14

Sub-Chapter §9 - Public Participation 14

 §9.01 Participation Invited..... 14

§9.02 Notice of Limitations on County Authority 14

CHAPTER 705 – SUBDIVISION AND PLATTING OF PROPERTY 15

Sub-Chapter §1 - General Subdivision Requirements 15

 §1.01 General Requirements 15

 §1.02 Subdivision Approval Process 15

Sub-Chapter §2 - Exemptions 15

 §2.01 Exempted Subdivisions 15

 §2.02 Registration 15

Sub-Chapter §3 - Application Procedures 16

 §3.01 General Requirements and Application Procedures 16

 §3.02 Additional Application Items 16

 §3.03 Communication with Precinct Commissioner 16

 §3.04 Supplemental Information 16

 §3.05 Record Plat 17

 §3.06 Application Review Periods 17

 §3.07 Technical Review Procedure 17

Sub-Chapter §4 - Subdivisions within ETJ of a Municipality 18

Sub-Chapter §5 - Preliminary Plan 18

 §5.01 Information 18

 §5.02 Street Design 21

 §5.03 Drainage 21

 §5.04 On-Site Sewage Rules 21

 §5.05 Approval of Preliminary Plan 21

 §5.06 Construction Activities 21

 §5.07 No Conveyance of Lots 21

 §5.08 Expiration 21

Sub-Chapter §6 - Final Plat 21

 §6.01 Information 21

 §6.02 Standard for Approval 23

 §6.03 Approval of a Final Plat 23

 §6.04 Additional Requirements for County Maintained Streets 23

 §6.05 Additional Requirements for Streets to be Maintained by a Homeowners Association 24

 §6.06 Additional Street Construction Requirements: 24

Sub-Chapter §7 - Record Plat 25

Sub-Chapter §8 - Revision and Cancellation 25

 §8.01 Cancellation 25

 §8.02 Revision 26

 §8.03 Review Period 26

 §8.04 Public Notice 26

 §8.05 Criteria for Approval 27

Sub-Chapter §9 - Public Notice 27

 §9.01 Notice Required 27

 §9.02 Posted Notice 27

 §9.03 Written Notice for New Subdivisions 27

 §9.04 Written Notice for Resubdivision or Cancellation 28

§9.05 Published Notice for Revision or Cancellation..... 28

CHAPTER 711 – MANUFACTURED HOME RENTAL COMMUNITIES 29

Sub-Chapter §1 - Applicability 29

 §1.01 General Requirements..... 29

 §1.02 Approval Required Prior to Construction 29

 §1.03 Approval Required Prior to Furnishing Utility Service..... 29

Sub-Chapter §2 - Application Procedures 29

 §2.01 General Requirements and Application Procedures 29

 §2.02 Additional Application Information 29

 §2.03 Communication with Precinct Commissioner 30

 §2.04 Supplemental Information 30

Sub-Chapter §3 - Minimum Standards 30

 §3.01 Internal Roadways and Drainage Facilities 30

 §3.02 Communities Served by On-Site Sewage Facilities 30

Sub-Chapter §4 - Requirements Prior to Occupancy..... 31

Sub-Chapter §5 - Public Notice 31

 §5.01 Notice Required 31

 §5.02 Posted Notice 31

 §5.03 Written Notice..... 31

CHAPTER 715 – WATER AND WASTEWATER AVAILABILITY 33

Sub-Chapter §1 - Applicability 33

 §1.01 General Requirements..... 33

 §1.02 Approval Required..... 33

Sub-Chapter §2 - Water Availability 33

 §2.01 Exemptions: 33

 §2.02 Developments to be served by individual private water wells 33

 §2.03 Developments to be served by a new TCEQ public water supply system: .. 34

 §2.04 Developments to be served by an existing TCEQ-permitted public water supply: 35

Sub-Chapter §3 - Wastewater Service Availability 36

 §3.01 Development Permits..... 36

 §3.02 Developments to be served by a new TCEQ-permitted wastewater system: 36

 §3.03 Developments to be served by an existing TCEQ-permitted wastewater system 37

 §3.04 Developments to be served by On-Site Sewage Facilities: 38

CHAPTER 721 – ROADWAY STANDARDS 39

Sub-Chapter §1 - Types of Roadways 39

 §1.01 Permitted Streets 39

Sub-Chapter §2 - Public Roadways 39

 §2.01 Dedication to Public..... 39

 §2.02 Design of Public Improvements..... 39

 §2.03 Access to Permitted Streets, Flag Lots 40

Sub-Chapter §3 - Public Roadways 42

CHAPTER 725 – ACCEPTANCE OF ROAD MAINTENANCE AND DEVELOPMENT PERMITS 44

Sub-Chapter §1 - Acceptance of Roadways for Maintenance 44

§1.01 Owner’s Maintenance Responsibility 44

§1.02 County Acceptance of Maintenance 44

Sub-Chapter §2 - Financial Assurance 45

§2.01 Performance Bond 45

Sub-Chapter §3 - Construction 46

§3.01 Installation of Utility Lines 46

§3.02 Temporary Construction Erosion Controls 46

§3.03 Construction of Roads Prior to Final Plat. 46

§3.04 Development Permits 46

CHAPTER 731 – DRAINAGE AND FLOOD CONTROL STANDARDS 47

Sub-Chapter §1 - Scope and Applicability 47

§1.01 Applicability 47

§1.02 Incentives for Lots Larger Than Five Acres 47

Sub-Chapter §2 - Design Criteria 47

§2.01 Sizing of Drainage Facilities 47

§2.02 Conveyance of 100-Year Storm Frequency Flows 48

§2.03 Maximum Headwater Elevation for Drainage Crossings 48

§2.04 Drainage Design Methodology 49

CHAPTER 735 –FLOOD DAMAGE PREVENTION 50

Sub-Chapter §1 - Statutory Authorization, Findings of Fact, Purpose and Methods 50

§1.01 Statutory Authorization 50

§1.02 Findings of Fact 50

§1.03 Statement of Purpose 50

§1.04 Methods of Reducing FloodLosses 50

Sub-Chapter §2 - Definitions 51

Sub-Chapter §3 - General Provisions 55

§3.01 Lands to Which This Ordinance Applies 55

§3.02 Basis for Establishing the Areas of Special Flood Hazard 55

§3.03 Establishment of Development Permit System 56

§3.04 Compliance 56

§3.05 Abrogation and Greater Restrictions 56

§3.06 Interpretation 56

§3.07 Warning and Disclaimer of Liability 57

§3.08 Establishment of Fees 57

Sub-Chapter §4 - Administration 57

§4.01 Designation of the Floodplain Administrator 57

§4.02 Duties and Responsibilities of the Floodplain Administrator 57

§4.03 Permit Procedures 58

§4.04 Variance Procedures 59

Sub-Chapter §5 - Provisions for Flood Hazard Reduction 60

§5.01 General Standards 60

§5.02 Specific Standards 60

§5.03 Standards for Subdivision Proposals 62

§5.04 Standards for Areas of Shallow Flooding (AO/AH Zones) 63

§5.05 Floodways 63

§5.06 Severability 64

§5.07 Penalties for Non-Compliance..... 64

CHAPTER 741 – ON-SITE SEWAGE FACILITIES..... 65

Sub-Chapter §1 - Preamble and Purpose 65

 §1.01 Preamble 65

 §1.02 Findings..... 66

 §1.03 Conflicts..... 67

Sub-Chapter §2 - Jurisdiction 67

 §2.01 Area of Jurisdiction..... 67

 §2.02 Regulated Activities..... 67

Sub-Chapter §3 - Adoptions and Incorporations 67

 §3.01 Adopting Chapter 366 of the Texas Health and Safety Code..... 67

 §3.02 Adopting the On-Site Sewage Facility Rules of the TCEQ..... 67

 §3.03 Incorporation by Reference..... 67

CHAPTER 745 – USE OF COUNTY PROPERTIES OR FACILITIES..... 78

Sub-Chapter §1 - Preamble and Purpose 78

 §1.01 Preamble 78

 §1.02 Purpose..... 78

 §1.03 County Property and Facilities Regulated 78

 §1.04 County Property and Facilities Excluded 78

Sub-Chapter §2 - Activities and Improvements..... 78

 §2.01 Construction or Land Disturbance 78

 §2.02 Temporary Structures or Facilities..... 78

 §2.03 Permanent Structures or Facilities 78

 §2.04 Exceptions for Emergency Conditions 79

Sub-Chapter §3 - Application Procedures 79

 §3.01 Fees 79

 §3.02 General Application Processing..... 79

 §3.03 Additional Information Required..... 79

 §3.04 Communication with Precinct Commissioner 79

Sub-Chapter §4 - General Requirements for Use 80

 §4.01 Reasonable Use..... 80

 §4.02 In the Public Interest 80

 §4.03 Public Health, Safety, and the Environment..... 80

 §4.04 Special Provisions 80

 §4.05 Responsibility of the Applicant or Grantee 80

 §4.06 Responsibility for Permitted Use 80

 §4.07 Responsibility for Improvements..... 80

 §4.08 Responsibility for Permitted Use 81

 §4.09 Time Limits on Approval..... 81

CHAPTER 751 – ECONOMIC INCENTIVES FOR DEVELOPMENT ACTIVITIES. 82

Sub-Chapter §1 - Applicability..... 82

 §1.01 General Requirements..... 82

 §1.02 Qualifying Activities..... 82

 §1.03 Types of Economic Incentives..... 82

Sub-Chapter §2 - Application of Economic Incentives By County..... 82

Sub-Chapter §3 - Rebate Application Process:..... 83

§3.01 Filing with Application 83

§3.02 Design and Cost Estimate 83

§3.03 Documentation 83

§3.04 Inspection 83

(a)

(b)

CHAPTER 701 – DEVELOPMENT REGULATIONS IN GENERAL

Sub-Chapter §1 - Preamble and Purpose

§1.01 Preamble and Purpose

These Subdivision and Development Regulations have been adopted by Order of the Hays County Commissioners Court to provide a framework for the orderly and efficient development of rural and suburban Hays County.

§1.02 Findings

These Subdivision Regulations have been adopted based on the following findings:

- (a) The Commissioners Court of Hays County has the authority to regulate the subdivision process pursuant to Local Government Code, §232.001 et. seq.;
- (b) The Commissioners Court of Hays County has been designated by the Texas Commission on Environmental Quality as the authorized agent for the licensing and regulation of on-site sewerage facilities within Hays County and these Regulations are a necessary component of such regulation;
- (c) The Commissioners Court of Hays County has the authority and obligation to exercise general control over the roads, highways, bridges and related drainage structures and development within Hays County;
- (d) The Commissioners Court of Hays County has been granted the authority and responsibility under the Federal Emergency Management Act to administer floodplain development regulations within the County and to regulate associated development;
- (e) The Commissioners Court of Hays County has considered the potential pollution, nuisances and injury to public health that could be caused by the use of private sewerage facilities within the County and has adopted these Regulations to abate or prevent the potential pollution, nuisances or injury to public health;
- (f) The Commissioners Court of Hays County has the authority and obligation to protect the public health, safety, morals, or general welfare of the citizens of Hays County as provided in Chapter 232.100 Texas LGC;
- (g) These Regulations are enacted to implement the powers conveyed to counties under the laws of the State of Texas, including but not limited to Tex. Rev. Stat. Ann. Art. 2352 (general control over all roads, highways and bridges), Tex. Rev. Stat. Ann. Art. 6702-1 (authority to adopt and implement a system for the laying out, opening, altering and discontinuing of roads), Tex. Rev. Stat. Ann. Art. 6626a (regulations of roads and streets and other facilities to control drainage and storm water runoff within real estate subdivision developments), Tex. Rev. Stat. Ann. Art. 4477-8 (county solid waste disposal systems), Tex. Rev. Stat. Ann. Art. 1443, 1443a and 1436b (regulation of water and gas utility lines within county right-of-way), Tex. Rev. Stat. Ann. Art. 4477-7e (authority to adopt standards for on-site sewerage facilities), Tex. Rev. Stat. Ann. Art. 4477-9a (regulation of public

highways for litter control), Tex. Local Gov't Code Ann. Section 232.001, et seq. (authority to adopt and enforce subdivision regulations and require plat approval), Tex. Local Gov't Code Ann. Section 242.001 (authority to regulate subdivisions pursuant to all statutes applicable to counties within the extraterritorial jurisdiction of municipalities), Tex. Health and Safety Code Ann. Sections 366.032 and 368.011 (authority to adopt rules relating to on-site sewerage facilities), Tex. Health and Safety Code Sections 121.003 and 122.001 (authority to enforce laws and appropriate funds necessary to protect public health), Tex. Water Code Ann. Section 16.311, et seq. (authority to set standards for construction within floodplain and to guide development of future development to minimize damage caused by floods), Tex. Water Code Ann. Section 54.2271 (regulation of municipal utility districts), Tex. Water Code 26.032 (authority to adopt rules to prevent pollution or injury to public health arising from use of on-site sewerage facilities), and Tex. Water Code Sections 26.171 and 26.175 (regulation of water quality by counties);

- (h) The Commissioners Court has considered the potential burden on landowners and taxpayers of substandard development or poor quality road construction;
- (i) Significant portions of Hays County are subject to the Edwards Aquifer Rules of the Texas Commission on Environmental Quality and, where feasible, reference is made to these Rules in these Regulations in order to provide property owners with a consistent framework for development throughout Hays County, but with a recognition that the Texas Commission on Environmental Quality retains the exclusive jurisdiction to enforce and administer the Edwards Aquifer Rules;
- (j) These Regulations are enacted to preserve and protect the resources, public health and private property interests of Hays County;
- (k) Water Availability requirements are authorized through the Texas Water Code Chapter 35 Sec. 35.019 and based on a finding by the Texas Water Development Board that since 1990 water usage within this priority groundwater management area has exceeded supply.

§1.03 Declaration

The Commissioners Court of Hays County, following public notice, investigation and hearing, has declared and hereby declares these Regulations to be necessary and appropriate to accomplish the purposes and goals enumerated above.

Sub-Chapter §2 - Definitions

The following terms, when used in these Regulations, shall have the meaning ascribed to them as outlined below.

Deleted: Definitions. All capitalized
Deleted: in this Article II

- (a) Acre - A unit of area equal to 43,560 square feet. When calculating the acreage of any Lot the gross square footage within the Lot shall be used, provided any area within a private roadway easement or an easement for a Shared Access Driveway shall be excluded.
- (b) Applicant - A person or recognized legal entity or its authorized representative seeking approval of an application submitted pursuant to these Regulations.

Deleted: n Owner
Deleted: proposed Subdivision

(c) Application - A document or series of documents describing the applicant, the property, the activity for which approval is sought, and how the activity satisfies the requirements of these regulations, and which is filed with the intent of obtaining approval of the application.

Formatted: Font: Times New

Formatted: Bullets and Numbering

Formatted: Font: Times New

Formatted: Font: Times New

(d) Commissioners Court - The Commissioners Court of Hays County.

(e) County - Hays County, Texas.

(f) County Clerk - The County Clerk of Hays County.

(g) Department - The Hays County Environmental Health Department.

Deleted: The current address of the Department is: 1251 Civic Center Loop, San Marcos, Texas, 78666.

(h) Development - All land modification activity, including the construction of buildings, roads, paved storage areas, parking lots and other impervious structures or surfaces.

(i) Director - The Director of the Hays County Environmental Health Department and any successor thereto.

(j) Edwards Aquifer Recharge Zone - Any area identified as such by the Edwards Aquifer Rules. In the event an Applicant cannot determine with specificity the location of the boundary of the Edwards Aquifer Recharge Zone, the Applicant may submit appropriate maps and other evidence as may be requested by the Department for assistance in such determination from the Department. Any determination by the Department will affect only these Regulations and will not in any manner be binding upon the TCEQ. The Department may require the Applicant to obtain a determination from the TCEQ and any determination by the TCEQ regarding the location of the Recharge Zone will control for purposes of these Regulations. The intent of these Regulations is to coordinate applicable state and local regulations such that the definition of the Edwards Aquifer Recharge Zone under these Regulations shall be identical with the definition found within the Edwards Aquifer Rules.

(k) Edwards Aquifer Rules - The Regulations promulgated by the Texas Commission on Environmental Quality relating to the Edwards Aquifer, currently set forth in Title 30 Texas Administrative Code Chapter 213, as amended from time to time.

(l) Final Plat - A map of a proposed Subdivision of land prepared in a form suitable for filing of record with all necessary survey drawings, notes, information, affidavits, dedications and acceptances as required by these Regulations.

(m) Lot - Any tract to be created by the division of the Original Tract pursuant to the proposed Subdivision application, including the remainder of the Original Tract.

(n) Manufactured Home Rental Community - a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than sixty (60) months without a purchase option, for the installation of manufactured homes for use and occupancy as residences.

(o) Original Tract - The original tract of land owned by an Owner prior to the proposed Subdivision.

(p) Owner - The owner of the land subject to the proposed Subdivision.

- (q) Permitted Street - As defined in Section 7.1 or as approved by the Hays County Commissioners Court for purposes of subdivision, access, or development.
- (r) Phased Development Agreement – An agreement proposed by the Developer for the timely and orderly development process of a large-scale subdivision. This agreement is subject to the review and approval of the Hays County Commissioners Court.
- (s) Political Subdivision - A county, municipality, school district, junior college district, housing authority, authority established by the Texas Legislature, municipal utility district, water control and improvement districts, emergency services districts, other special districts, or other political subdivision of the State of Texas.
- (t) Preliminary Plan - A map of proposed Subdivision of land showing the general dimensions and boundaries of each Lot, the layout of the proposed streets, drainage improvements, utility infrastructure, if any, easements, and other information required by these Regulations.
- (u) Regulations - The Hays County Subdivision and Development Regulations.
- (v) Road Department - The Hays County Road Department.
- (w) Road Director - The Director of the Hays County Road Department.
- (x) Subdivision - The division of a tract of land situated within Hays County and outside the corporate limits of any municipality into two or more to lay out: (i) a subdivision of the tract, including an addition; (ii) lots; or (iii) streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.
 - (1) A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance, or in a contract for deed or other executory contract to convey, or in a lease (other than agricultural and hunting leases), or by using any other method of a conveyance of an interest in land.
 - (2) A division of land shall be considered as relating to the laying out of streets, whether public or private, if:
 - A. The division occurs prior to the later to occur of: two (2) years from the date of the completion of construction of any street onto which the Lot has frontage or, in the case of public streets, the expiration of the performance or maintenance bond for any such street;
 - B. The division of land creates one or more Lots without practical, physical vehicular access onto a Permitted Street or with less than fifty feet (50') of direct frontage onto a Permitted Street or calls for driveways onto Permitted Streets that are spaced fewer than fifty feet (50') apart;
 - C. (3) The division of land will affect drainage on, in or adjacent to a public street or any county drainage ditch, swale, culvert of other drainage facility; or

- D. (4) Other circumstances exist which, in the determination of the Director or the Road Director, cause such division of land to be related to the laying out of streets or related to drainage for any street or road to which any Lot has access. It is the intent of the Commissioners Court of Hays County that the term "subdivision" be interpreted to include all divisions of the land to the fullest extent permitted under the laws of the State of Texas.

(y) Subject Property – the property or tract for which an Application has been submitted under these Regulations.

Formatted: Bullets and Numbering

(z) TCEQ Regulated Development - Any development or construction activity that would constitute a Regulated Activity under the Edwards Aquifer Rules (see 30 TAC §213.3), but without regard to the aquifer over which the activity is conducted. If a Lot larger than five acres is restricted by plat note prohibiting (i) further resubdivision of the Lot into lots five acres in size or smaller and (ii) any Development other than the construction of a single-family residence or duplex and associated customary out buildings, such as a barn or garage apartment, then such Development on the Lot shall be considered excluded from the term "TCEQ Regulated Development" for purposes of these Regulations.

Sub-Chapter §3 - Enforcement and Penalties

§3.01 Category of Offense

A person commits an offense if the person knowingly or intentionally violates a requirement of these Regulations, or the requirements or provisions of any appendices attached to these Regulations. An offense under this provision is a Class B misdemeanor punishable by fine or imprisonment or both.

Deleted: , including the Road Design and Construction Specifications incorporated into these Regulations, the Rules of Hays County for On-Site Sewage Facilities and

§3.02 Enforcement Actions

At the request of the Commissioners Court, the county attorney or other prosecuting attorney for the County may file an action in a court of competent jurisdiction to:

- (a) Enjoin the violation or threatened violation of a requirement established by or adopted by the Commissioners Court under these Regulations; or
- (b) Recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with a requirement established by or adopted by the Commissioners Court under these Regulations.

§3.03 Enforcement of Plat Notes

The enforcement of plat notes or restrictions is generally the responsibility of the developer and other persons holding a property interest, whether in fee simple or by easement, in the subdivision. Plat notes shall reflect that the County may enforce any plat notes imposed pursuant to the Rules of Hays County for On-Site Sewage Facilities or Sections 6, 7 or 10 of these Regulations, any plat note limiting development to single family residences or prohibiting further resubdivision of the tract in order to qualify for an incentive under these Regulations, any plat note imposed in conjunction with an

Average Daily Traffic calculation or in conjunction with a Shared Access Driveway or any plat note affecting County rights of way or drainage or the public health, safety and welfare. Moreover, the Commissioners Court shall have the right and authority through appropriate legal procedures to prohibit the construction or connection of utilities or issuing of permits if the plat notes or restrictions have been violated.

§3.04 Severability

In the event any article, appendix, section, paragraph, sentence, clause or phrase of these Regulations shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any remaining phrases, clauses, sentences, paragraphs, sections, appendices or articles of these Regulations. It is the express intent of the Hays County Commissioners Court that the articles, appendices, sections, paragraphs, sentences, clauses or phrases of these Regulations be severable.

Sub-Chapter §4 - Variances

§4.01 Criteria for Variance

The Commissioners Court shall have the authority to grant variances from these Regulations when the public interest or the requirements of justice demands relaxation of the strict requirements of the Rules. Factors to be considered by the Court in evaluating a request for variance shall include:

- (a) The actual situation of the property in question in relation to neighboring or similar properties, such that no special privilege not enjoyed by other similarly situated properties may be granted;
- (b) Whether strict enforcement of the Regulations would deny the Applicant the privileges or safety of similarly situated property with similarly timed development;
- (c) That the granting of the variance will not be detrimental to the public health, safety and welfare, or injurious to other property or will not prevent the orderly subdivision of the land in the area in accordance with these Regulations; and
- (d) Whether there are special circumstances of conditions affecting the land or proposed development involved such that strict application of the provisions of these Regulations would deprive the applicant the reasonable use of his land and that failure to approve the variance would result in undue hardship to the applicant. Pecuniary hardship, standing alone, shall not be deemed to constitute undue hardship.

§4.02 Application Materials

Any person who wishes to receive a variance should apply to the Department with a list of, and a detailed justification, for each variance requested.

§4.03 Discretion to Grant Variances

The decision of the Court whether to grant or deny a variance is at its complete discretion, and will be final.

Sub-Chapter §5 - Delegation of Authority

Formatted: Bullets and Numbering

§5.01 Responsible Department

The Commissioners Court designates the Hays County Environmental Health Department (Department), and specifically the Director of the Department as agent for receiving and reviewing Applications submitted under these regulations.

§5.02 Delegation of Authority

Formatted: Bullets and Numbering

The Department and Director are delegated the authority by the Commissioner’s Court to conduct the activities required on behalf of the County under these regulations. The Commissioner’s Court reserves the final authority for approval or denial of any Application submitted under these regulations.

Sub-Chapter §6 - Outstanding Tax Liabilities

Formatted: Bullets and Numbering

§6.01 Applicant Requirements

Applicants who submit Applications under these regulations shall be current on all outstanding tax liabilities with the County. This requirement is independent of whether the Subject Property included in the Application is owned by the Applicant.

§6.02 Property Requirements

Formatted: Bullets and Numbering

Subject Properties for which an Application is submitted under these regulations shall be current on all outstanding tax liabilities with the County.

§6.03 Documentation of Tax Status

Formatted: Bullets and Numbering

Applications submitted under these regulations shall identify any applicable identification numbers from the Hays Central Appraisal District (HCAD) or other duly appointed tax assessing entity for both the Applicant and the Subject Property. The Department and/or its designated representatives may independently investigate the status of payment of County taxes for both the Applicant and the Subject Property. The Department may require the Applicant to submit documentation of the status of payment of County taxes for both the Applicant and the Subject Property.

§6.04 Suspension of Processing

Formatted: Bullets and Numbering

The County may suspend processing of any Application submitted under these regulations if the County becomes aware that either the Applicant or the Subject Property are delinquent in payment of any non-disputed County tax liability.

Sub-Chapter §7 - General Application Procedures

Formatted: Bullets and Numbering

§7.01 Application Forms

The Department shall develop and make available to the public forms for submitting Applications for the various types of approvals required under these regulations. These Application forms shall provide for the following information:

- (a) the legal name of the Applicant;
- (b) the name or title by which the Applicant will describe the application;

Formatted: Bullets and Numbering

- (c) the name, address and contact information for the Applicant’s designated contact person;
- (d) the HCAD Owner Identification number for the Applicant;
- (e) the type of application being submitted;
- (f) the identification of any supplemental information submitted;
- (g) the legal name, address and contact information for the Owner of the Subject Property, if different from the Applicant;
- (h) general location information for the Subject Property;
- (i) certifications by the Applicant and/or the property Owner required under these regulations;
- (j) the signature of the Applicant;
- (k) documentation for tracking the Application through the County’s review process; and,
- (l) the number of copies of the Application and supplemental information to be submitted.

The Applicant is responsible for ensuring that all applicable information regarding the Application is provided on the Application Form. Supplemental information may be attached to the Application Form, but should be noted in the designated section of the Application Form.

§7.02 Representations and Certifications

By submitting an Application under these regulations, the Applicant and/or the Property Owner shall represent and certify:

- (a) there is no outstanding tax liability to the County;
- (b) the Property Owner has authorized the submittal of the Application;
- (c) the required fees accompany the Application;
- (d) the Applicant has met with the Commissioner(s) in whose precinct(s) the Subject Property is located;
- (e) the County is authorized to review and act upon the application.

← Formatted: Bullets and Numbering

§7.03 Supplemental Information

Where required by individual Chapters, the Applicant shall submit the specified number of copies of supplemental material. Supplemental information shall conform to the following format:

- (a) Where possible, supplemental information should be submitted in black and white format. The submittal of color information should be coordinated in advance with the Department.
- (b) Supplemental information consisting primarily of text shall be submitted on 8-1/2” x 11” standard paper.

* --- Formatted: Outline numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

(c) Drawings or graphic information should be submitted using one of several commercially available sizes of standard paper:

- (1) 8-1/2" x 11" standard paper (Size A)
- (2) 11" x 17" standard paper (Size B)

Formatted: List 3, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

(d) With prior coordination, Applicants may submit over-size drawings or graphic information on any standard commercially available media, including:

- (1) 17" x 22" or 18" x 24" (Sizes C or C1)
- (2) 22" x 34" or 24" x 36" (Sizes D or D1)
- (3) 34" x 44" or 36" x 48" (Sizes E or E1)

Formatted: Bullets and Numbering

Formatted: List 3, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

(e) Where required by individual Chapters, digital versions of certain drawings and graphics must be submitted in addition to the hard copies. The Department shall develop, update and publish the digital file format requirements and transmittal or delivery procedures and formats.

Formatted: Bullets and Numbering

(f) Where required by these Regulations or other applicable law, professional engineering, professional geoscience and professional surveying submittals shall be appropriately signed and sealed by an individual currently licensed to practice in Texas in accordance with the Texas Engineering Practice Act, the Texas Geoscience Practice Act and/or the Texas Professional Land Surveying Practices Act.

§7.04 Application Fees

Each Application submitted under these regulations shall be accompanied by the payment of all applicable fees identified under these regulations. The Application fees shall be non-refundable and in the amounts set forth in these Regulations. These fees may be amended from time to time by the Commissioners Court without amending or affecting the remainder of these Regulations. The fees shall be determined in U.S. dollars in accordance with the most recent fee schedule approved by the Commissioners Court. Payment may be made using any payment method established by the Commissioner's Court for transacting County business.

Deleted: n

Deleted: pay a

Deleted: fee

Deleted: Appendix 1 of

Deleted: together with each Application for a Preliminary Plan and Final Plat approval

Deleted: Appendix I

Deleted:

Formatted: Bullets and Numbering

§7.05 Administrative Review

Before an Application filed under these regulations will be reviewed by the Department, it must be administratively complete. An administratively complete Application will contain responses to all items on the Application form, will be accompanied by the payment of all applicable fees, and will have the tax status confirmed for both the Applicant and the Subject Property. The Department shall conduct an initial review of the Application to determine whether it is administratively complete. If the Application is not administratively complete, the Department shall notify the Applicant of the deficiencies with the Application. Further processing of the Application shall be suspended until these administrative deficiencies have been remedied. Once an Application has been determined by the Department to be administratively complete, the Department shall provide written confirmation to the Applicant, with a copy to the County Commissioner(s) in whose precinct the property included in the Application is located. Applications for which the deficiencies are not remedied within thirty (30)

calendar days following notice of deficiencies may be returned to the Applicant and considered withdrawn.

§7.06 **Technical Review**

Formatted: Bullets and Numbering

Before an Application filed under these regulations can be subjected to a technical review by the Department, it must be determined to be administratively complete. Before an Application filed under these regulations will be submitted to the Commissioner’s Court for final action, the Application shall be reviewed by the Department and determined to be technically complete. The Department shall review of the Application to ensure that it complies with the technical requirements of these regulations, including any applicable variances requested. If the Application is not technically complete, the Department shall notify the Applicant of the technical deficiencies with the Application. Further processing of the Application shall be suspended until these deficiencies have been remedied. Once an application has been determined by the Department to be technically complete, the Department shall provide written confirmation to the Applicant, with a copy to the County Commissioner(s) in whose precinct the Subject Property is located. Applications for which the technical deficiencies are not remedied within sixty (60) calendar days following notice of deficiencies may be returned to the Applicant and considered withdrawn. Technically complete applications shall be forwarded to the office of the County Judge for placement on the Commissioner’s Court agenda.

§7.07 **Combined Administrative and Technical Review**

Formatted: Bullets and Numbering

Applications which are routine in nature and have a limited number of technical requirements may, at the discretion of the Department, have both the administrative and technical reviews conducted together. The Department may also combine the written confirmation of administrative and technical completion required in §7.04 and §7.05.

Sub-Chapter §8 - General Public Notice and Involvement Requirements

Formatted: Bullets and Numbering

§8.01 **Notice Required**

Where individual Chapters of these Regulations require notice, the Applicant is responsible for accomplishing such notice, including any costs associated with such notice.

§8.02 **Documentation**

Formatted: Bullets and Numbering

Where individual Chapters of these Regulations require notice, the Applicant is responsible for furnishing documentation to the County confirming that such notice was accomplished.

§8.03 **Posted Notice**

Formatted: Heading 2

Formatted: Bullets and Numbering

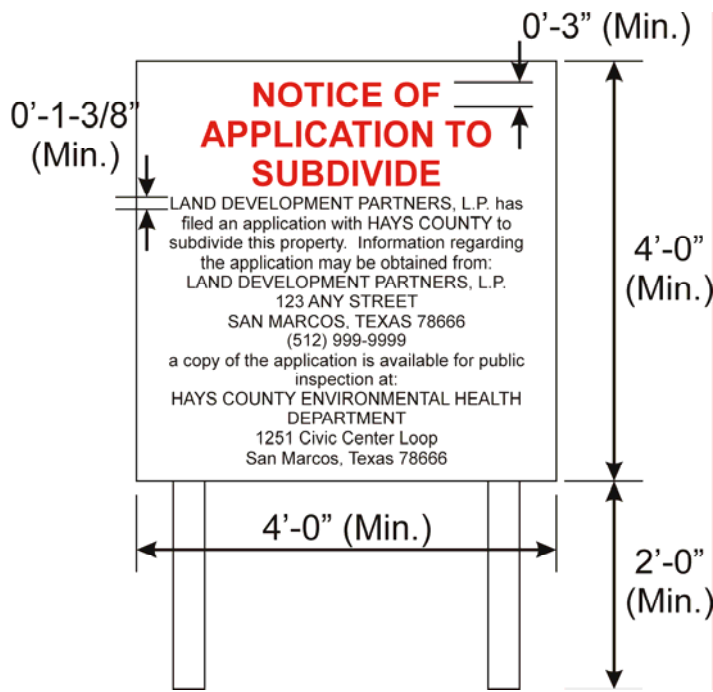
Where individual Chapters of these Regulations require posted notice, the Applicant shall be required to notify the public upon submission of an Application. This notice shall be accomplished through posting signs at the Subject Property. This section shall apply to all individuals seeking approval from the Hays County Commissioners Court where Posted Notice is required, no exemptions from these requirements shall be allowed. The following requirements apply to Posted Notice, where required:

Deleted: plat

- (a) Within two (2) working days of filing an application with the County, the Applicant shall install public notice signs on the Subject Property. Signs shall remain in place on the Subject Property until a final decision is rendered on the Application by the Commissioner's Court or until such time as the Application is withdrawn, if the application is withdrawn.
- (b) Signs shall be placed within twenty (20) feet of all property boundaries fronting on a public roadway. Where the length of the boundary fronting on a public roadway exceeds one thousand feet, the signs shall be spaced no further than one-thousand feet apart. At least one sign shall be placed along each public roadway fronting the property. The Applicant shall ensure that the view of the signs is not obstructed by objects on the Subject Property and that the signs are placed where there is an unobstructed view of the signs from the public roadway. Signs are not required to be placed along property boundaries that do not front on a public roadway.
- (c) The signs shall contain the specific text required by the individual Chapter that includes the posted notice requirement.
- (d) The signs shall be a minimum size of four feet by four feet, with the bottom of the sign placed at least two feet above ground level. The background of the sign shall be white. The heading on the sign shall be red letters at least three inches high in bold typeface with the required text in all capital letters. The remaining text on the sign shall be black letters at least 1-3/8" high containing the remaining text of the notice. An example graphic for a sign is shown below.

Formatted: Bullets and Numbering

Formatted: List 2



(e) The signs shall be constructed of materials that are sufficiently durable to ensure the sign remains in-place and legible during the entire period that posting is required.

Formatted: List 2

(f) It shall be the responsibility of the applicant to periodically check sign locations to verify that signs remain in place and have not been vandalized or removed. The applicant shall immediately notify the County of any missing or defective signs. It is unlawful for a person to alter any notification sign, or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements. If signs are removed, damage or become illegible, the Applicant shall replace the signs within three (3) working days.

Formatted: Bullets and Numbering

§8.04 *Written Notice*

Where individual Chapters of these Regulations require posted notice, the Applicant shall be required to notify affected political subdivisions and property owners in the proximity of the Subject Property through written notice. The following requirements apply to Written Notice, where required:

(a) The notice must include A map clearly showing the boundaries and general location of the proposed subdivision, and major roadways in the vicinity. a map clearly showing the boundaries and general location of the Subject Property and major roadways in the vicinity.

Formatted: List 2, Outline numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

(b) The notice must include A general description of the nature of the proposed subdivision, including identification of the applicant for the subdivision plat. a general description of the nature of the activities for which approval is being requested and the identification of the Applicant.

(c) The notice must also include any additional information required by the individual Chapter that includes the written notice requirement.

§8.05 *Identification of Affected Political Subdivisions*

Where written notice is required to be submitted to an affected political subdivision, as part of its technical review of a completed application the Department shall identify all political subdivisions affected by the Application for which it has available records. The list of affected political subdivisions shall at a minimum include any political subdivision within whose boundaries the Subject Property is located. If the Subject Property is not located within the boundaries of an emergency services or management district, a school district, a water utility district, or a wastewater utility district, the nearest such district shall be included in the list of affected political subdivisions. The address for notice purposes for each affected political subdivision shall be the address furnished by the Department to the Applicant.

Deleted: ¶ Notification

Formatted: Heading 2, Left

Deleted: ¶
1. For a proposed

Deleted: proposed subdivision

Deleted: proposed subdivision

Deleted: proposed subdivision

§8.06 *Identification of Proximate Property Owners*

Formatted: Bullets and Numbering

Where written notice is required to be submitted to proximate property owners, the applicant shall identify all proximate property owners for the Subject Property. Proximate properties consist of properties that share a common boundary to the Subject Property and properties within two hundred feet of the Subject Property that are separated

from the Subject Property by a public roadway. The identified owners for the proximate properties shall be those owners on file with the Hays Central Appraisal District (HCAD) within thirty (30) days prior to the date the application is filed. The address of the identified owners for notice purposes shall be the address on file with the HCAD.

§8.07 Delivery of Written Notice

Formatted: Bullets and Numbering

The following requirements apply to the delivery of Written Notice, where required:

(a) The applicant may deliver the written notice in person, by depositing the notice with the United States Postal Service, postage paid. Personal delivery shall be confirmed by a written acknowledgement of receipt by the party to whom the written notice was delivered or their authorized agent. Mailed notice deposited with the USPS shall be sent certified with return receipt requested. Mailed notice may be confirmed by the receipt returned by the USPS.

Formatted: List 2, Outline numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

(b) Where written notice is required to affected political subdivisions, within ten days of the filing of the application and the Department's providing the applicant with a list of affected political subdivisions, the applicant shall provide written notice of the proposed subdivision to each of the affected political subdivisions.

Deleted: W

Deleted: Preliminary Plan

(c) Where written notice is required to proximate property owners, within ten days of the filing of the application, the applicant shall provide written notice of the Application to each of the proximate property owners.

(d) Within ten days of providing such written notice under these Regulations, the Applicant shall provide copies of the notification and proof of notice delivery to the Department.

Deleted: a

§8.08 Published Notice

Formatted: Heading 2

Formatted: Bullets and Numbering

Where individual Chapters of these Regulations require published notice, the Applicant shall be required to publish notice of the Application in the newspaper having the largest circulation within one mile of the Subject Property. Notice shall be published by the Applicant at least three (3) times during the period beginning on the 30th day and ending on the 7th day prior to the date of the Commissioners Court hearing on the Application. To document publication of the required notice, the Applicant shall submit a notarized publisher's affidavit demonstrating actual publication.

§8.09 Additional Public Notice by the County

Formatted: Bullets and Numbering

Where these regulations require notice, the County may accomplish additional public notice of any Application or pending action on such Application using whatever means it may deem appropriate and as required by federal, state or local law. Any such costs for this additional public notice shall be the responsibility of the County. Additional public notice by the County may include, but is not limited to posting notice on the Commissioner's Court agenda, posting notice in conjunction with other posted notices at County facilities, posting on any electronic medium maintained or used by the County, and inclusion of such notice in any announcement or communication performed by the County. Except where required by law, such additional public notice by the County will be at the discretion of the Commissioner's Court.

§8.10 Public Meetings

Formatted: Heading 2

Where these Regulations require the Applicant to conduct a public meeting, the following requirements shall apply:

- (a) Prior to conducting a public meeting, the Applicant or prospective Applicant shall prepare and file with the Department a concept plan for the proposed development.
- (b) The purpose of the public meeting is for the Applicant or prospective Applicant to present the concept plan to the public and to receive public comment upon the concept plan. The intent of the public meeting is to identify issues of concern about a proposed development that may be able to be resolved prior to submission of an Application under these Regulations. Failure to resolve issues of concern prior to filing an Application does not affect the Department’s review of the Application which shall be carried out under normal procedures as required by these Regulations regardless of the outcome of the public meeting.
- (c) The public meeting may be held at any time within 90 days in advance of filing of the Application. Advance notice of the public meeting shall be published in a newspaper of general circulation within the County at least once a week for two consecutive weeks, in accordance with the requirements for Published Notice in §701.8.08. The Applicant shall also provide Written Notice in accordance §701.8.04 to consist of the text of the Published Notice of the meeting and a copy of the Concept Plan to the property owners in the proximity of the Subject Property, as identified in §701.8.06. Written notice shall also be provided to the Commissioner in whose precinct the Subject Property is located.
- (d) A copy of the concept plan and the public notice shall be submitted along with all other application materials required to be submitted for an Application under these Regulations.

Formatted: Bullets and Numbering

Sub-Chapter §9 - Public Participation

§9.01 Participation Invited

The Commissioner’s Court invites and welcomes public participation in the process of reviewing and approving development applications. In administering these regulations, the Department is directed to comply with the requirements of the Texas Open Records Act and the Americans With Disabilities Act to ensure open public access to the process.

§9.02 Notice of Limitations on County Authority

Formatted: Bullets and Numbering

Where required or allowed under these regulations, public notices issued shall contain specific notice of the limitations on the County’s legal authority identified in the Texas Local Government Code in administering these regulations. This notice of limitations shall identify those items which the Commissioner’s Court may consider when deciding whether to approve or deny an Application, and shall indicate that the Commissioner’s Court may not consider other factors in making their decision.

CHAPTER 705 – SUBDIVISION AND PLATTING OF PROPERTY

Sub-Chapter §1 - General Subdivision Requirements

§1.01 General Requirements

Any Applicant who subdivides a tract of land shall:

Deleted: Owner

- (a) Comply in all respects with these regulations; and,
- (b) Prepare and submit to the Commissioners Court an application for approval or registration of the proposed Subdivision in accordance with the terms and procedures set forth in these regulations.

§1.02 Subdivision Approval Process

No Subdivision shall be approved until the Applicant has satisfied each of the following steps in the order indicated:

Deleted: permitted

Deleted: Owner

- (a) Approval of Preliminary Plan by the Commissioners Court.
- (b) Approval of Final Plat by the Commissioners Court.
- (c) Filing of Record Plat with the County Clerk, to be recorded in the Plat Records of the County.

Sub-Chapter §2 - Exemptions

§2.01 Exempted Subdivisions

The following subdivisions of property are exempted from the subdivision and platting requirements, except for the requirement to register the subdivision, as outlined below:

Formatted: Body Text

- (a) Exemptions allowed as defined by Texas Local Government Code §232.0015.
- (b) Exempted subdivisions must have direct access (fee simple) to a permitted public roadway.

Deleted: are

Deleted: Exemptions

§2.02 Registration

An Applicant whose subdivision is exempt from the subdivision and platting requirements of these Regulations shall register the division with the County Clerk and submit the following to the County Clerk:

Deleted: Owner

- (a) A duplicate copy of the recorded conveyance instrument, with legible metes and bounds description attached thereto;
- (b) A survey or sketch (which may be on tax parcel maps or other form approved by the Department) showing the boundaries of the Lots, adjacent roads and adjacent property owners;
- (c) An executed registration form in the form promulgated by the Department which shall require the Owner to acknowledge that all Lots remain subject to the on-site wastewater rules and development permit requirements of the County.

- (d) An affidavit stating that the owner/subdivider of the land acknowledges that any change to the exemption will require the platting of the property through the Hays County Commissioners Court.

Sub-Chapter §3 - Application Procedures

§3.01 *General Requirements and Application Procedures*

Applications to the Commissioners Court for platting and subdividing property pursuant to these Regulations is subject to the general requirements and Application procedures set forth in Chapter 701 of these regulations.

§3.02 *Additional Application Items*

In addition to the items required to be submitted in accordance with §701.7, all Applications to the Commissioners Court for platting and subdividing property pursuant to these Regulations, including amendments or supplemental materials, shall be delivered to the Department and shall be include:

- (a) the name, address and phone number of the Owner and, if different, the Applicant;
- (b) the name, address and phone number of any person submitting the materials on behalf of the Owner;
- (c) the name of the proposed Subdivision;
- (d) the size and location of the Original Tract or, if a reference number has previously been assigned, the reference number of the Subdivision application; and,
- (e) a detailed description of the requested actions.

§3.03 *Communication with Precinct Commissioner*

The Applicant or the Applicant's authorized agent is required to contact the Commissioner(s) in whose precinct(s) the proposed Subdivision is located prior to the submission of the Application.

§3.04 *Supplemental Information*

In addition to the items required to be submitted in accordance with §701.7, each Application for Preliminary Plan or Final Plat shall include the following:

- (a) Completed Application form(s) as published by the Department through the date of the Application;
- (b) Eight 18" x 24" copies of the Preliminary Plan or sixteen 18" x 24" copies of the Final Plat provided that the Department may require up to four additional copies of the Preliminary Plan;
- (c) All other documents or reports required pursuant to these Regulations and any associated bonds or letters of credit.
- (d) Any subdivision proposal that is not exempt according to §705.2, shall be required to submit digital files for all drawings and graphics of the subdivision, as required under §701.7.03.

- Formatted:** Bullets and Numbering
- Deleted:** *Transmittal Materials*
- Formatted:** Bullets and Numbering
- Deleted:** All
- Deleted:** submissions
- Deleted:** accompanied by a letter of transmittal indicating
- Deleted:** developer or a
- Formatted:** Bullets and Numbering
- Deleted:** Owner
- Deleted:** its
- Deleted:** requested
- Deleted:** initial a
- Deleted:** for approval of the Subdivision
- Deleted:** *Application Materials*
- Formatted:** Bullets and Numbering
- Deleted:** All submissions
- Deleted:** Each
- Deleted:** application
- Deleted:** A c
- Deleted:** application
- Deleted:** in the current form
- Deleted:** promulgated
- Deleted:** <#>The applicable application fee;¶
- Deleted:** <#>A tax certificate showing that all taxes currently due with respect to the Original Tract have been paid;¶
- Formatted:** Bullets and Numbering
- Deleted:** blue line or photocopies
- Deleted:** blue line
- Deleted:** Section 4.1
- Deleted:** a
- Deleted:** drawing
- Deleted:** The format of the digital drawing shall be the ASCII version of a DXF file, and the file may be submitted to the County on 3.5" diskette, compact disc (CD), or via e-mail (in a compressed format). The digital file shall be projected to fit within the parameters of the Texas Stateplane Coordinate System, South Central Zone, NAD 83, in survey feet. A minimum of two GPS ground control point coordinates of said points shall be identified in the digital file. This paragraph does not constitute a comprehensive list of digital data requirements, and additional information may be obtained from the Environ... [1]

(e) Deeds of conveyance to current owner(s).

§3.05 Record Plat

Two duplicate 18" x 24" photographic mylars shall be presented to the County Clerk for recording as the Record Plat. All writing and drawings on the Record Plat must be large enough to be easily legible following recording.

§3.06 Application Review Periods

The Department review period for an application for a Preliminary Plan or Final Plat shall begin on the first business day after a completed Application is submitted and shall end on the first Wednesday following the expiration of fifteen (15) working days thereafter

Formatted: Bullets and Numbering

Deleted: final plat a

(a) An application for a Preliminary Plan or Final Plat shall be deemed to be complete for purposes of this Section 3.7 when all of the materials required under Section 3.5 are delivered to the Department in accordance with Section 3.3 together with:

- (1) for Preliminary Plans, those items required in Article V, and;
- (2) for Final Plats, those items required in Article VI.

(b) Final resolution of a plat shall be no later than 60 days from the date of the complete final plat application submittal.

§3.07 Technical Review Procedure

Upon receipt of a completed application, the Department shall conduct a technical review of the Application and make a recommendation to the Commissioners Court as to whether the application is in compliance with these Regulations.

Formatted: Bullets and Numbering

- (a) In the event the Department determines that the Application is not complete, then the Department shall provide the Applicant with written comments detailing the outstanding or deficient items.
- (b) Upon receipt of the Department's written comments, the Applicant shall submit to the Department additional information or a revision to the Application, together with a written response to each comment of the Department. The Applicant may request that the application be forwarded to the Commissioners Court without addressing the Department's comments, in which event the Department will make its recommendation and itemize the deficient or outstanding items for the Commissioners Court.
- (c) Upon written request of the Applicant, the Director may extend the Applicant's thirty-day response time to provide supplemental information, but in no event for longer than sixty (60) additional days.
- (d) The Department may review any supplemental materials submitted by an Applicant until the first Wednesday following the expiration of fifteen (15) working days after such supplemental materials were submitted to the Department.

- (e) In the event the Applicant fails to respond to the Department within the thirty day response period (or the period as extended by the Department), the Department shall return the Application to the Applicant, without a refund of fees paid, and the Applicant will be required to re-file an original application, with applicable fees, for further consideration of the Application.
- (f) All Applications whose technical review period expired on or before Wednesday of any week shall be posted by the Department for consideration by the Commissioners Court at the next regularly scheduled meeting of the Commissioners Court. The Department may post an Application for consideration at any time prior to the expiration of the review period if the review process has been completed.
- (g) The Department shall forward the results of its technical review and its recommendations with respect to the Application to the Commissioners Court.

Sub-Chapter §4 - Subdivisions within ETJ of a Municipality

Whenever an Original Tract lies within the extraterritorial jurisdiction of a municipality and is subject to the subdivision regulations of such municipality, the applicant should obtain approval of the application from the municipality before obtaining final review by the County. As required by the Texas Property Code, the County Clerk will not accept a Record Plat for recordation unless it has been approved by the County and, with respect to the Municipality, it has either been approved or exempted from the municipality's subdivision regulations. The County Clerk may require written proof of exemption from a municipality's subdivision authority to be filed with the Record Plat. A plat note will be required stating that the subdivision is either exempt or not exempt from the particular city's ETJ ordinances. (See applicable plat note in Appendix II). In the event the land is subject to both municipal subdivision regulations and these Subdivision regulations then the stricter standard shall apply and may be enforced by either the City or the County or both. The applicant bears the burden of establishing to the Commissioners Court that no municipal subdivision approval is required.

Sub-Chapter §5 - Preliminary Plan

§5.01 Information

A proposed Preliminary Plan shall include the following:

- (a) General Information.
 - (1) Name of the proposed Subdivision, which shall not be the same or deceptively similar to any other subdivision within the County unless the subdivision is an extension of a pre-existing, contiguous subdivision. Applications for subdivisions which are an extension of a pre-existing, contiguous subdivision shall include a designation of the sequence order for each separate application (e.g. Phase II, Section 3, etc.)
 - (2) The boundary lines and total acreage of the Original Tract, the Subject Property and the proposed Subdivision.
 - (3) A note stating the total number of Lots within the proposed subdivision and the average size of Lots, and the total number of Lots within the

following size categories: 10 acres or larger, larger than 5.0 acres and smaller than 10 acres, 2.00 acres or larger up to 5.00 acres, larger than 1.00 acre and smaller than 2.0 acres and smaller than 1.00 acre.

- (4) Approximate acreage and dimensions of each Lot.
- (5) The location of any proposed parks, squares, greenbelts, schools or other public use facilities.
- (6) Names of adjoining subdivisions or owners of property contiguous to the proposed Subdivision.
- (7) Name and address of the professional land surveyor and/or professional engineer.
- (8) Name and address of the Owner, and Applicant if not the Owner. Deleted: developer or a
- (9) Area map showing general location of Subdivision in relation to major roads, towns, cities or topographic features.
- (10) North arrow, scale and date. The scale shall not exceed 1" = 200'.
- (11) Boundary lines of any incorporated municipality and the limit of the extraterritorial jurisdiction of any municipality. Deleted: city
Deleted: city
- (12) The location of Political Subdivision (e.g school districts, municipal utility districts, emergency services districts, etc.) boundaries and/or a statement clearly indicating in which Political Subdivision(s) the Subdivision is located. In the event any Lot lies within more than one Political Subdivision then the plat shall clearly state the number of acres within the Lot that lies within each Political Subdivision. Deleted: school district
Deleted: school district
Deleted: school district

(b) Flood Plain and Drainage Information.

- (1) Elevation contours at no greater than ten-foot (10') intervals, based on NGVD '29 datum.
- (2) All Special Flood Hazard Areas identified by the most current flood Insurance Rate Maps published by the Federal Emergency Management Agency.
- (3) For each Lot containing 100-year floodplain, sufficient additional contours to identify and delineate the 100-year floodplain and regulatory floodway, if any. If base flood elevations have not already been established, they shall be established by a method satisfactory to the Director.
- (4) For each subdivision containing 100-year floodplain, at least one benchmark showing NGVD '29 elevation, as well as latitude and longitude.
- (5) A drainage plan depicting the anticipated flow of all drainage onto and from the subdivision and showing all major topographic features on or adjacent to the property including all water courses, 100 year floodplain boundaries, ravines, bridges and culverts.
- (6) The location and size of all proposed drainage structures, including on-site retention or detention ponds and easements and the impact of lot and street layouts on drainage.
- (7) General depiction of the boundary lines of the Edwards Aquifer Recharge Zone, or the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer (as defined in the Rules of Hays County for On-Site Sewage Facilities), if affecting the property, and a statement certified by

the surveyor or engineer under his or her professional seal that, to the best of his or her knowledge, the plat accurately reflects the general location (or absence) of the Edwards Aquifer Recharge Zone or the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer.

- (8) Depiction of all streams, rivers, ponds, lakes, other surface water features or any Sensitive Features (as defined by the Texas Commission on Environmental Quality in 30 Texas Administrative Code §213.3) and a statement certified by the surveyor or engineer under his or her professional seal that, to the best of his or her knowledge, the plat accurately reflects the general location (or absence) of all such features in accordance with the terms of these Regulations.

(9) A statement as to whether or not development of the proposed subdivision is subject to the TCEQ Edwards Aquifer Regulations in 30 TAC §213.

Formatted: Bullets and Numbering

(c) Street and Right of Way Information.

- (1) Location, length and right-of-way widths of all proposed streets and a depiction of how all proposed streets shall connect with previously dedicated, platted or planned streets within the vicinity of the Subdivision.
- (2) Location, size and proposed use of all proposed access easements, or Shared Access Driveways, if any.
- (3) A statement indicating whether the Applicant shall seek County maintenance of the roads or approval of a homeowner's association for road maintenance or designation of roads as private roads.
- (4) The number of feet of frontage of each Lot onto a Permitted Street.
- (5) A report calculating the Average Daily Traffic of all roadways prepared in accordance with Section 7.3 below, unless exempted pursuant to Section 7.3(b).
- (6) A designation of the classification of each road or street to be constructed or existing streets abutting any Lot (Country Lane, Local Street, Minor Collector, Major Collector, Minor Arterial or Major Arterial), as determined in accordance with Section 7.3 below.
- (7) Proposed location of all depth gauges, as required under Article 10, at all road crossings where the 100 year frequency flow or lesser frequency storm event is anticipated to flow over the road surface and any proposed gates or warning devices. Note: the Commissioners Court may require gates or warning devices at such locations.

(d) Water, Wastewater and Utilities Information.

- (1) Designation of the entity supplying electric, phone and gas utilities to Lots, or a statement that such utility is not available.
- (2) The location of all proposed utility easements and/or infrastructure, including water well sanitary easements, if applicable.
- (3) The water engineering report required by Section 3.12, Subsection 2 and the wastewater engineering report required by Section 3.13, Subsection 1.
- (4) Certification that all Lots have been designed in compliance with the Rules of Hays County for On-Site Sewage Facilities, together with all planning and evaluation materials required to determine Lot sizing under

Deleted: <#>(3) Designation of the water and sewer utility provider for the Subdivision, if known, and the source of the water intended to serve each Lot within the subdivided area (i.e. surface water, ground water from a specified aquifer, etc.), along with the water availability requirements outlined in Section 3.12. The proposed water source is not required to be in service at time of preliminary planning.¶

the Hays County On-Site Sewage Rules and any request for a variance under the Rules of Hays County for On-Site Sewage Facilities.

§5.02 Street Design

A proposed Preliminary Plan shall satisfy the requirements of Article VII relating to design of streets and shall contain a written certification from a Registered Professional Engineer that the location and dimensions of streets as set forth and laid out on the Preliminary Plan are in accordance with these Regulations. This information is not the sealed Construction of Roads and Drainage Improvements plans that are required after approval of preliminary plan.

§5.03 Drainage

A proposed preliminary plan shall satisfy the requirements of Chapter §731 of these Regulations relating to Drainage and Flood Control Standards and shall contain a written certification from a licensed Professional Engineer stating that the location and approximate sizes of the drainage structure set forth in the preliminary plan are in accordance with the Department's Drainage and Flood Control Standards.

Deleted: Article X

Deleted: Registered

Deleted: Design Criteria

§5.04 On-Site Sewage Rules

A proposed preliminary plan shall satisfy the requirements of the Rules of Hays County for On-Site Sewage Systems.

§5.05 Approval of Preliminary Plan

The Commissioners Court shall approve a Preliminary Plan if it satisfies each of the requirements set forth in Article V and all other provisions of these Regulations.

§5.06 Construction Activities

Approval of a Preliminary Plan does not authorize any construction or Development activities, except as permitted in Section 8.6 below, but merely authorizes the Applicant to proceed with the preparation of a Final Plat.

§5.07 No Conveyance of Lots

Conveyance of lots depicted on a Preliminary Plan shall not be permitted until the final plat has been approved and the record plat filed with the County Clerk.

§5.08 Expiration

Approval of a Preliminary Plan shall expire and be of no further force and effect in the event a Final Plat for a portion of the Subdivision is not filed within twelve (12) months following the date of the Commissioner's Court approval of the Preliminary Plan.

Deleted: and Record

Sub-Chapter §6 - Final Plat

§6.01 Information

A proposed Final Plat shall comply with the requirements of the approved Preliminary Plan and shall include the following:

- (a) General Information

- (1) Bearings and dimensions of the boundary of the Subdivision and all Lots, parks, greenbelts, easements or reserves. Dimensions shall be shown to the nearest one-hundredth of a foot (0.01') and bearings shall be shown to the nearest one second of angle (01"). The length of the radius and arc of all curves, with bearings and distances of all chords, shall be clearly indicated.
 - (2) Description of monumentation used to mark all boundary, lot and block corners, and all points of curvature and tangency on street rights-of-way.
 - (3) Location of original survey line. The subdivision shall be located with respect to an original corner of the original survey of which it is part.
 - (4) Lot and block numbers for each Lot.
 - (5) Acreage of all Lots, calculated to the nearest one-hundredth of an acre.
- (b) Flood Plain and Drainage Information
- (1) For subdivisions containing 100 year floodplain, benchmarks and finished floor elevations of each lot in accordance with the Hays County Flood Damage Prevention Ordinance. (Article VIII)
 - (2) For each subdivision containing 100 year floodplain, at least one monument containing latitude and longitude and 1929 N.V. datum coordinates.
- (c) Street and Right of Way Information
- (1) Total length of all streets, to the nearest one-tenth mile, and a declaration as to which category of streets will be constructed, as described in Section 7.7 (paved, public streets to be maintained by the County), Section 7.8 (unpaved, private streets to be maintained by an approved homeowners association) or Section 7.8 (paved, private streets maintained by an approved homeowners association).
 - (2) Total area of all rights-of-way proposed for dedication.
 - (3) The items required under Section 6.4 (County Maintained Streets) or Section 6.5 (Homeowner Association Maintained Streets), as applicable.
 - (4) The following statement shall appear prominently on the Final Plat: "In order to promote safe use of roadways and preserve the conditions of public roadways, no driveway constructed on any lot within this subdivision shall be permitted access onto a publicly dedicated roadway unless (a) a Driveway Permit has been issued by the Road Department of Hays County and (b) the driveway satisfies the minimum spacing requirement for driveways set forth in Sections 7.4 and 7.5 of the Hays County Subdivision Regulations."
 - (5) Where required, the minimum driveway culvert size for each lot.
- (d) Water, Wastewater and Utilities Information
- (1) The following statement shall appear prominently on the Final Plat: "No structure in this subdivision shall be occupied until connected to an individual water supply or state-approved community water system. Due to declining water supply, prospective property owners are cautioned by Hays County to question the seller concerning ground water availability."

Rain water collection is encouraged and in some areas may offer the best renewable water resource."

- (2) The following statement shall appear prominently on the Final Plat: "No structure in this subdivision shall be occupied until connected to a public sewer system or to an on-site wastewater system that has been approved and permitted by the Hays County Environmental Health Department."
- (3) For subdivision plats applicants required to submit a water engineering report under Section 3.12, Subsection 2, the following statement shall appear prominently on the Final Plat: "The filer of this plat has submitted to the Hays County Environmental Health Department a water engineering report describing how water service will be provided to this subdivision."
For subdivision plat applicants required to submit a wastewater engineering report under Section 3.13, Subsection 1, the following statement shall appear prominently on the Final Plat: "The filer of this plat has submitted to the Hays County Environmental Health Department a wastewater engineering report describing how wastewater service will be provided to this subdivision."

(e) Other Plat Notes and Certifications

- (1) The following statement shall appear prominently on the plat: "No construction or development within the subdivision may begin until all Hays County Development Permit requirements have been satisfied."
- (2) Certifications and Plat Notes set forth in Appendix II of these Regulations, as applicable.

§6.02 *Standard for Approval*

The Commissioners Court shall approve a Final Plat if it satisfies each of the Requirements set forth in Articles VI, VII, VIII, IX and X.

§6.03 *Approval of a Final Plat*

Approval of a Final Plat shall not authorize any construction or Development activities, except as permitted under Section 8.6 below, but merely authorizes the Applicant to proceed with preparation of a Record Plat.

§6.04 *Additional Requirements for County Maintained Streets*

Concurrently with the filing of an application for Final Plat approval, an Applicant seeking to construct streets or drainage improvements that will be accepted by the County for maintenance or to be privately maintained, shall submit the following:

- (a) Construction Plans for all streets and drainage improvements within the subdivision and signage plans for all streets;
- (b) A certification under the seal of a Professional Engineer that the Construction Plans and pavement designs are in compliance with these Regulations;
- (c) The anticipated cost, per linear foot, of each street; and
- (d) The total estimated construction cost of all of the streets and drainage improvements proposed to be constructed within the subdivision.

- (e) Fiscal security for 100% of the estimated construction costs for roads and drainage improvements, if final approval of the plat is desired prior to the completion of construction of road and drainage improvements.

§6.05 *Additional Requirements for Streets to be Maintained by a Homeowners Association*

Concurrently with the filing of an application for Final Plat approval seeking approval of a homeowners association to maintain the streets within the Subdivision the Applicant shall submit the following:

- (a) Ready-for-execution copies of the articles of incorporation and bylaws of the homeowners association; and
- (b) The minimum annual assessments that will be imposed upon members of the homeowners association.

§6.06 *Additional Street Construction Requirements:*

In conjunction with the submittal of final platting materials the following information will be considered:

- (a) Streets to be Constructed After Final Plat. The Road Construction Security required under Section 8.3 with executed articles of incorporation and bylaws for an approved homeowners association, if applicable, together with any modifications made to the Signage Plans or Construction Plans following review by the Department, certified under the seal of a professional engineer to be in compliance with these Regulations and approved by the Road Director; or
- (b) Streets Constructed Before Final Plat. A certification from the Road Director that all Permitted Streets reflected on the Final Plat have been constructed in accordance with the Regulations and inspected by the Road Director, together with As Built Plans for such streets, and a concurrence letter from the design engineer stating that the constructed streets “are substantially complete and comply with the road and drainage construction standards as established by the Hays County Subdivision & Development Regulations”, and a Maintenance Bond described in Section 8.3(c) below, and executed articles of incorporation and bylaws for an approved homeowners association, if applicable;
- (c) If the Final Plat is approved prior to completion of construction of all Permitted Streets, an acknowledgment that no Development Permit will be issued for any Lot until completion of sub-grade of the Permitted Street serving the Lot and, if applicable, installation of all underground utilities.
- (d) By submitting Construction Plans and a Final Plat, the Owner acknowledges that he or she is aware of and will comply with all requirements of Hays County regarding construction and development in effect at the time the Subdivision application was submitted, including:
 - (1) the requirement regulating the access of private construction vehicles from construction sites onto publicly maintained roadways, requiring the Owner to take certain steps to limit and clean all mud or other debris carried onto

- the public roadways by such construction vehicles and imposing fines for non-compliance;
- (2) The requirement that all construction within County right-of-way, including driveways and drainage improvements and the cutting of any existing roads for installation of utilities, to obtain a permit from the County prior to commencement, to be inspected prior to completion, prohibiting cutting of certain roadways within three (3) years of construction thereof and imposing fines for non-compliance; and
- (3) The requirement concerning construction standards for mailboxes installed within the right-of-way of streets and highways and requiring all such mailboxes to be made of collapsible materials, as defined in the ordinance.

Sub-Chapter §7 - Record Plat

Within twelve (12) months following approval of the Final Plat, the Applicant shall present a Record Plat to the Department for final approval and delivery to the County Judge for execution. The Record Plat shall contain, or be submitted with, the following:

- (a) Any Water Pollution Abatement Plan approved by the Texas Commission on Environmental Quality, if the property lies within the Edwards Aquifer Recharge Zone, or evidence that none is required as of the date of the Record Plat (the Department may require a letter from the TCEQ evidencing that no water pollution abatement plan has been issued or is yet required for the division);
- (b) All items required in Section 3.5 above, including filing fees and tax certificates; and

Sub-Chapter §8 - Revision and Cancellation

§8.01 Cancellation

Any application to cancel an existing plat shall be submitted and considered in accordance with ~~Texas Local Government Code Section §232.008~~, which establishes, among other things:

Deleted: Article 232.008 of the

- (a) The application shall be granted if it is shown that the cancellation of all or a part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation;
- (b) Notice of the application must be published in English in the County for at least three weeks before action is taken on the application;
- (c) Upon application of the owners of 75 percent of the property included in the subdivision, phase or identifiable part, the Commissioners Court shall authorize the cancellation upon notice and hearing as required under ~~Texas Local Government Code Section §232.008~~, provided that if the owners of at least 10 percent of the property affected file written objections with the Commissioners Court, the grant of an order of cancellation is at the discretion of the Commissioners Court; and

Deleted: Article

- (d) Establishing a certain private action for damages against the applicant for persons who protest unsuccessfully against a cancellation application. In the event of any conflict or inconsistency between the summary set forth above and the actual terms of Texas Local Government Code §232.008, as amended, the terms of the Texas Local Government Code shall control in all respects.

Deleted: Article 232.008 of the

§8.02 *Revision*

The Owner of an existing lot or lots in a platted subdivision may submit an application to revise the portion of the existing plat affecting such Lots, unless prohibited by restrictive covenants or plat notes filed pursuant to these Regulations, by submitting the following to the Department:

- (a) Sixteen copies of the proposed revised plat, conforming in all respects to the requirements of these Regulations; or, if submitted by a private homeowner who is not a developer in the subdivision, other materials acceptable to the Director clearly setting forth the desired amendment;
- (b) A statement giving the reason for the proposed revision;
- (c) A filing fee equal to \$200.00, plus \$10.00 per affected lot.
- (d) Any revision for the purposes of adjusting lot lines, or the consolidation of lots may with the approval of the Precinct Commissioner be subject to Final approval only.

§8.03 *Review Period*

The Department shall have the review period established in Sections 3.7 and 3.8 above.

§8.04 *Public Notice*

After the date the Department posts the resubdivision for consideration by the Commissioners Court, but before the application is considered by the Court, the County shall have delivered or published all notices required by Texas Local Government Code Sections §232.009, including:

- (e) A notarized publisher's affidavit demonstrating publication of the application in a newspaper of general circulation in the area affected by the resubdivision, including a statement of the time and place at which the Commissioners Court will meet to consider the application and hear protests, if any. As required by Texas Local Government Code Section §232.009, the notice shall be published three (3) times during the period beginning on the 30th day and ending on the 7th day prior to the date of the Commissioners Court hearing; and
- (f) Delivery of notice of the application to all owners within the original subdivision by certified or registered mail, return receipt requested.
- (g) Any revision for the purposes of lot-line adjustments or the consolidation of lots shall be exempt from the notification requirements.

Formatted: Bullets and Numbering

§8.05 Criteria for Approval

The Commissioners Court may approve an application to revise a subdivision upon a finding that:

- (a) The revision will not interfere with the established rights of any owner of a part of the subdivided land; or each owner whose rights may be interfered with has agreed to and signed the revised plat; and
- (b) The plat as revised conforms to the requirements of the Regulations.

Sub-Chapter §9 - Public Notice

Formatted: Bullets and Numbering

§9.01 Notice Required

This sub-chapter shall apply to all individuals seeking approval from the Commissioners Court for a Preliminary Plan or Final Plat; no exemptions from these requirements shall be allowed.

Formatted: Bullets and Numbering

§9.02 Posted Notice

The Applicant shall be required to notify the public upon submission of an Application under this Chapter, including Applications for revision or cancellation of an existing subdivision plat, in accordance with the requirements for Posted Notice in §701.8.03. The signs shall contain the following header text:

NOTICE OF APPLICATION TO SUBDIVIDE

The signs shall contain the following notice text:

{Applicant Name} has filed an application with HAYS COUNTY to subdivide this property. Information regarding the application may be obtained from:

{Applicant Contact Information}

A copy of the application is available for public inspection at:

HAYS COUNTY ENVIRONMENTAL HEALTH DEPARTMENT

1251 Civic Center Loop

San Marcos, Texas 78666

§9.03 Written Notice for New Subdivisions

The Applicant shall be required to notify affected political subdivisions and property owners in the proximity of the Subject Property upon submission of an application under this Chapter in accordance with the requirements for Written Notice in §701.8.04. This section shall apply to all individuals seeking Preliminary Plan or Final Plat approval from the Hays County Commissioners Court, no exemptions from these requirements shall be allowed. In addition to the items required under §701.11, the written notice must include, at the minimum, the following information:

Deleted: p

Deleted: T

- The total area of the proposed subdivision and the number of platted lots included in the Subject Property;

- The anticipated timetable for build-out of the subdivision and any anticipated subsequent phases of development, including an estimated population for each phase and at full buildout.
- A statement of how water, wastewater, emergency services, and electric service will be provided, including identification of all such proposed utility providers.

§9.04 **Written Notice for Resubdivision or Cancellation**

An Applicant for revision or cancellation of an existing subdivision plat shall be required to notify all owners within the original subdivision by certified or registered mail, return receipt requested in accordance with the requirements for Written Notice in §701.8.08. In addition to the items required under §701.8.04, the written notice must include, at the minimum, the following information:

- (a) For Applications involving revision of an existing subdivision plat, a detailed description of the proposed revision to the plat.
- (b) For Applications involving cancellation of an existing subdivision plat, a statement that an Application has been filed requesting that the County cancel and vacate the plat and any associated development approvals.

§9.05 **Published Notice for Revision or Cancellation**

After the date the Department posts the revision or cancellation of an existing subdivision plat for consideration by the Commissioners Court, but before the application is considered by the Court, the Applicant shall have delivered or published all notices required by Texas Local Government Code Sections §232.009, including: a statement of the time and place at which the Commissioners Court will meet to consider the application and hear protests, if any. As required by Texas Local Government Code Section §232.009, the notice shall be published three (3) times during the period beginning on the 30th day and ending on the 7th day prior to the date of the Commissioners Court hearing. The Published Notice shall be completed in accordance with the requirements for Published Notice in §701.8.09. This section shall apply to all individuals seeking plat approval from the Hays County Commissioners Court, no exemptions from these requirements shall be allowed.

Deleted: Public

Deleted: Delivery of notice of the application to

Deleted: .

Deleted: T

Deleted: resubdivision

Deleted: County

Deleted: ¶

Deleted: A

Deleted: notarized publisher's affidavit demonstrating publication of the application in a newspaper of general circulation in the area affected by the resubdivision, including a

CHAPTER 711 – MANUFACTURED HOME RENTAL COMMUNITIES

Sub-Chapter §1 - Applicability

§1.01 General Requirements

Formatted: Bullets and Numbering

This Chapter shall govern the construction and development of all Manufactured Home Rental Communities in the County, unless excluded or exempted under State law or as exempted below.

§1.02 Approval Required Prior to Construction

Formatted: Bullets and Numbering

Approval of the Commissioners Court is required prior to the construction and development of a Manufactured Home Rental Community. These regulations apply only to a Manufactured Home Rental Community for which construction is commenced on or after the effective date of the order. Construction of a proposed Manufactured Home Rental Community may not begin before and approval has been issued by the Commissioners Court.

Deleted: is change in law made by the 76th Texas Legislature applies

Deleted: manufactured

Deleted: home

Deleted: rental

Deleted: community

Deleted: the infrastructure plan has been approved

§1.03 Approval Required Prior to Furnishing Utility Service

Formatted: Bullets and Numbering

A utility may not provide utility services, including water, sewer, gas, and electric services to a manufactured home rental community subject to infrastructure development plan requirements until the plan is approved by Commissioners Court.

Deleted: Plan

Sub-Chapter §2 - Application Procedures

Formatted: Bullets and Numbering

§2.01 General Requirements and Application Procedures

Applications to the Commissioners Court for approval of a Manufactured Home Rental Community pursuant to these Regulations are subject to the general requirements and Application procedures set forth in Chapter 701 of these regulations.

§2.02 Additional Application Information

Formatted: Bullets and Numbering

In addition to the items required to be submitted in accordance with §701.7, all Applications to the Commissioners Court for approval of a Manufactured Home Rental Community pursuant to these Regulations, including amendments or supplemental materials, shall be delivered to the Department and shall include:

- (a) The name of the proposed Manufactured Home Rental Community;
- (b) Any technical representatives or consultants responsible for preparation of the Application or Supplemental Information (e.g. professional engineers, professional geoscientists, professional land surveyors, registered sanitarians, attorneys, accountants, etc.);
- (c) the size and location of the Original Tract or, if a reference number has previously been assigned, the reference number of the Subdivision application; and,
- (d) a detailed description of the requested actions.

Formatted: Outline numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Tab after: 0.5" + Indent at: 0.5"

Formatted: Bullets and Numbering

(e) Fees for Infrastructure Development Plans for Manufactured Home Rental Communities shall be based on the number of lots or rental spaces and shall be the same as Hays County Subdivision Review Fees.

§2.03 **Communication with Precinct Commissioner**

Formatted: Bullets and Numbering

The Applicant or the Applicant’s authorized agent is required to contact the Commissioner(s) in whose precinct(s) the proposed Manufactured Home Rental Community is located prior to the submission of the Application.

§2.04 **Supplemental Information**

Formatted: Bullets and Numbering

In addition to the items required to be submitted with the Application in accordance with §701.7 and §705.2.02, each Application shall be supplemented with the following information:

(a) A copy of the deed or deeds documenting current ownership of the Subject Property.

Formatted: Bullets and Numbering

(b) A boundary survey of the proposed Manufactured Home Rental Community, prepared by a licensed professional land surveyor, which identifies the proposed location of all rental spaces, utility easements, drainage easements and floodplain boundaries.

Deleted: development site

(c) An Infrastructure Development Plan, prepared by a licensed professional engineer, that details the following information:

(1) Existing and proposed public and private roadways, including those designated for general egress/ingress and those designated for emergency access.

Formatted: List 3, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

(2) The means for providing water and wastewater service to the development, including a demonstration of availability for both as required under Chapter §715.

Deleted: ,

(3) A drainage plan prepared in accordance with Chapter §731.

Deleted: lines,

(d) All other documents or reports required pursuant to these Regulations and any associated bonds or letters of credit.

Deleted: standard engineering practices which meets the standards and specifications as adopted within the Hays County Subdivision Regulations

Sub-Chapter §3 - Minimum Standards

Formatted: Bullets and Numbering

§3.01 **Internal Roadways and Drainage Facilities**

All internal roads and associated drainage facilities shall be designed and constructed to minimum standards that are reasonably necessary to permit ingress and egress access by fire and emergency vehicles as designed by a licensed professional engineer. The drainage facilities shall not be required to exceed the standards and specifications as adopted within the county’s subdivision regulations.

Deleted: <#>Infrastructure Plan¶ Construction of a proposed manufactured home rental community may not begin before the infrastructure plan has been approved by the Commissioners Court.¶

Deleted: and Submission Requirements

Deleted: registered

§3.02 **Communities Served by On-Site Sewage Facilities**

All developments to be served by On-Site Sewage Facilities shall comply with 30 TAC Chapter 285 Section 285.4, “Facility Planning” and Section, 285.5 “Submittal Requirements for Planning Materials” and the “Hays County Rules for On-site Sewage Facilities”.

Certification by the water and/or wastewater service provider that they agree to provide service and

Sub-Chapter §4 - Requirements Prior to Occupancy

Formatted: Bullets and Numbering

The Hays County Road Department shall inspect all roads and associated drainage structures for compliance with these minimum standards. Tenants may not occupy rental spaces until all construction requirements of the infrastructure plan have been approved and completed.

Deleted: D.

Deleted: ¶
E.

Sub-Chapter §5 - Public Notice

Formatted: Bullets and Numbering

§5.01 Notice Required

This sub-chapter shall apply to all individuals seeking approval from the Commissioners Court for a Manufactured Home Rental Community; no exemptions from these requirements shall be allowed.

Formatted: Normal

§5.02 Posted Notice

Formatted: Bullets and Numbering

The Applicant shall be required to notify the public upon submission of an application under this Chapter in accordance with the requirements for Posted Notice in §701.10. The signs shall contain the following header text:

NOTICE OF APPLICATION FOR MANUFACTURED HOME RENTAL COMMUNITY

The signs shall contain the following notice text:

{Applicant Name} has filed an application with HAYS COUNTY to construct a manufactured home rental community on this property.

Information regarding the application may be obtained from:

{Applicant Contact Information}

A copy of the application is available for public inspection at:

HAYS COUNTY ENVIRONMENTAL HEALTH DEPARTMENT

1251 Civic Center Loop

San Marcos, Texas 78666

§5.03 Written Notice

Formatted: Heading 2

Formatted: Bullets and Numbering

The Applicant shall be required to notify affected political subdivisions and property owners in the proximity of the Subject Property upon submission of an application under this Chapter in accordance with the requirements for Written Notice in §701.11. In addition to the items required under §701.11, the notice must include, at the minimum, the following information:

- The maximum number of rental units to be located at the subject property;
- The anticipated timetable for initial construction and any anticipated subsequent phases of development, including an estimated population for each phase and at full buildout.

Formatted: Bullets and Numbering

- A statement of how water, wastewater, emergency services, and electric service will be provided, including identification of all such proposed utility providers.

Deleted: <#>Enforcement; Penalties¶
<#>Category of Offense¶
A person knowingly or intentionally violates a requirement of these Regulations, including the Road Design and Construction Specifications incorporated in these Regulations, the Rules of Hays County for On-Site Sewage Facilities and any appendices attached to these Regulations. An offense under this provision is a Class B misdemeanor punishable by fine or imprisonment or both.¶
<#>Enforcement Actions¶
At the request of the Commissioners Court, the county attorney or other prosecuting attorney for the County may file an action in a court of competent jurisdiction to:¶
<#>Enjoin the violation or threatened violation of a requirement established by or adopted by the Commissioners Court under these Regulations; or¶
<#>Recover damages in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with a requirement established by or adopted by the Commissioners Court under these Regulations.¶

CHAPTER 715 – WATER AND WASTEWATER AVAILABILITY

Sub-Chapter §1 - Applicability

§1.01 *General Requirements*

This Chapter shall govern demonstrations of water and wastewater availability required in conjunction with the platting and subdividing of property, and with the development of Manufactured Home Rental Communities, unless excluded or exempted under State law or as exempted in these Regulations.

Formatted: Bullets and Numbering

Deleted: This section shall apply to all individuals seeking plat approval from the Hays County Commissioners Court.

§1.02 *Approval Required*

Approval of the Commissioners Court is required prior to or in conjunction with platting and/or subdividing property and the development of a Manufactured Home Rental Community.

Formatted: Bullets and Numbering

Sub-Chapter §2 - Water Availability

While these rules are intended to preserve and protect the water resources of Hays County, the Commissioners Court of Hays County does not make any warranty - express, implied or otherwise - that developments that comply with these rules will be able to meet the water needs of those whom the development serves.

Deleted: subdivisions

Deleted: purchasing lots within the subdivision

§2.01 *Exemptions:*

The County desires that all developments comply with these regulations. The following subdivisions are exempted from the requirements to certify water availability under these regulations.

Deleted: <#>Applicability¶

Formatted: Bullets and Numbering

- (a) All subdivisions of five lots or less in which all lots average at least 2 acres each.
- (b) All subdivisions of ten lots or less in which all lots are larger than ten acres.
- (c) All subdivisions in which all lots are restricted by plat note to be served only by rainwater collection or surface water sources.
- (d) All subdivisions of property for the purpose of conveyance to family members up to the second order of sanguinity in which all lots average at least 2 acres, and in which each lot is to be used only for their personal single family residence

Deleted: Subdivisions

Formatted: Bullets and Numbering

§2.02 *Developments to be served by individual private water wells*

Applicants requesting approval to utilize and individual private water well to serve the proposed development shall construct at least two wells (one test well and one monitor well). Use of existing wells will be permitted if the wells fully meet these regulations. Well analyses shall be performed by a Texas licensed professional engineer or Texas licensed professional geoscientist, qualified to perform the hydrogeological testing, geophysical well logging and aquifer pump testing. The following information shall be provided to Commissioners Court for each well tested.

Formatted: Body Text, Left, Indent: Left: 0", First line: 0", Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

Deleted: plat

Deleted: State of

Deleted: Registered

Deleted: P

Deleted: E

Deleted: Hydrogeologist

- (a) Identify the hydrogeologic formation by well driller’s log and approved geophysical logging methods. Provide a map and list of all known wells within 1,000 feet of the proposed subdivision boundaries (or a distance where measurable drawdown effects from the proposed subdivision well are expected). Each well is to be located by latitude and longitude.
- (b) The Certification of Groundwater Availability For Platting Form as required by the TCEQ rules on Groundwater Availability Certification for Platting at 30 Tex. Admin. Code Section 230.3. The Department shall require an applicant to submit any engineering calculations, studies or other data supporting the statements contained in the Certification of Groundwater Availability For Platting Form.

Individuals marketing the development shall provide each purchaser or renter with a summary of all the above referenced data.

§2.03 *Developments to be served by a new TCEQ public water supply system:*

Applicants proposing to serve a development through a new public water supply system shall submit an engineering report sealed by a Texas licensed professional engineer describing how the proposed development will be provided with water service. The water engineering report shall at a minimum contain the following information:

- (a) A description of how water service will be provided to serve all portions of the development (e.g. platted lots or rental units), including identification of all water treatment, storage, pumping, transmission and distribution facilities and if any of the facilities will be placed in county rights-of-way. If the project is to be phased, the description must address all water facilities proposed to be utilized throughout full build-out of the development.
- (b) An estimate of the amount of water demand throughout all phases of development supported by engineering calculations based on the anticipated timetable for full build-out, including a statement describing the level of fire protection afforded to the proposed phase(s) of the development.
- (c) A statement as to whether there are plans for alternative or backup water service; if so, an identification of the alternative or backup water source.
- (d) A map showing the proposed location of all water facilities throughout all phases of development as well as the proposed water service area, including any TCEQ-approved service area boundaries of a water service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed subdivision.
- (e) An estimated timetable for completion of all facilities.
- (f) Based on the information available at the time the application is submitted, the anticipated owner(s) and operator(s) of all water facilities throughout all phases of development shall be identified and included in the application.

Deleted: (b) Obtain the static water level to the nearest one tenth foot and equate to the mean sea level elevation. Hays County reserves the right to maintain selected monitor well sites for long-term data acquisition of static water levels in order to track regional water level trends. The test and monitor wells shall contain a one inch plug to facilitate possible future water level monitoring.¶

(c) Perform an aquifer pump test using approved methods of the karst aquifer systems of the Texas Hill Country. The pump test shall be performed prior to any acidization or other flow capacity treatment. The duration of the pump test shall be 24 hours or until the water level has stabilized (less than one tenth foot fluctuations) in the test well for a period exceeding two hours. The constant pumping rate used in the pumping test shall be at least the average rate of pumping for water supply use. Following pumping, water level measurements will be continued in the test and monitor wells until levels recover to their original static levels.¶

(d) Using information from the aquifer pump test, calculate aquifer properties including transmissivity, hydraulic conductivity, and storage coefficient of the test and monitor wells.¶

(e) Using aquifer properties and proposed pumping rates for the full subdivision build-out, provide cumulative drawn-down calculations for selected radial distances up to 1,000 feet of the proposed subdivision boundaries, or a distance where measurable draw-down effects at known wells identified in (a) are expected.¶

The bacterial and chemical analysis of the test well as provided in 30 TAC 230.9.¶

- Deleted:** se subdivision lots
- Deleted:** *Subdivisions*
- Formatted:** Bullets and Numbering
- Deleted:** subdivision
- Deleted:** subdivision
- Deleted:** subdivision
- Deleted:** subdivision

- (g) For **developments** subject to the TCEQ Chapter 213 Edwards Aquifer rules, a statement acknowledging that all applicable requirements of such rules will be met.
- (h) If water service is to be provided by a municipal utility district or other special purpose district that has not been created as of the filing of the Preliminary Plan, a detailed description of the proposed district boundaries, a timetable for creation of the district, and identification of the proposed organization of the district.
- (i) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

Deleted: subdivisions

§2.04 Developments to be served by an existing TCEQ-permitted public water supply:

If wholesale or retail water service is to be provided by an existing water utility or other existing water service provider, an applicant shall submit a written statement from the existing provider containing the following:

- (a) A description of the authority of the existing provider to serve the proposed phase of development.
- (b) A statement as to whether the existing provider has available capacity to serve the proposed phase of **development**, including a statement describing the level of fire protection afforded to the proposed phase(s) of the **development**.
- (c) A description of the type of water service to be provided (wholesale or retail) and a timetable for the providing of such service to the proposed development.
- (d) A statement as to whether there are plans for alternative or backup water service; if so, an identification of the alternative or backup water source.
- (e) Identification of any anticipated water supply or service agreements that will need to be executed prior to the provision of service.
- (f) A description of any anticipated new water facility improvements that the existing provider will be required to construct to serve the **development** and a timetable for completion of the improvements and if it is anticipated that county rights-of- way will be utilized to locate any water improvements.
- (g) A description of how water service will be provided to serve all **portions of the development (e.g. platted lots or rental units)**, including identification of all water treatment, storage, pumping, transmission and distribution facilities and if any of the facilities will be placed in county rights-of-way. If the project is to be phased, the description must address all water facilities proposed to be utilized throughout full build-out of the **development**.
- (h) An estimated timetable for completion of all facilities.

Deleted: <#>¶
 <#>Subdivisions to be served by TCEQ permitted public water supplies:¶
 <#>¶
 <#>• Individuals proposing to serve a new subdivision by a public water supply system established to serve the new subdivision shall provide to commissioners court the following information:¶
 <#>¶
 <#>(a) Certification that the public water supply system has sufficient capacity and acceptable water quality to serve all the proposed development for the subdivision.¶
 <#>¶
 <#>(b) A map identifying the service boundaries of the public water supply as authorized in their Certificate of Convenience and Necessity.¶
 <#>¶
 <#>(c) A projection of the annual water usage generated by the new subdivision at build-out.¶
 <#>¶
 <#>(d) When new wells are being constructed to serve a TCEQ permitted water supply, provide a map and list of all known wells within 1,000 feet of the proposed subdivision boundaries (or a distance where measurable drawdown effects from the proposed subdivision wells are expected).¶
 <#>¶
 <#>(e) This subparagraph does not include previously approved public water supplies by TCEQ or expanded CCN's.¶

Deleted: Subdivisions

Formatted: Bullets and Numbering

Deleted: subdivision

Deleted: subdivision

Deleted: subdivision

Deleted: subdivision

Deleted: subdivision

- (i) A map showing the proposed location of all water facilities throughout all phases of development as well as the proposed water service area, including any TCEQ-approved service area boundaries of a water service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed development.
- (j) For developments that are regulated by the Edwards Aquifer Authority or the TCEQ Chapter 213 Edwards Aquifer rules, a statement acknowledging that all applicable requirements of such rules are met.
- (k) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

Deleted: subdivision

Deleted: subdivisions

Sub-Chapter §3 - Wastewater Service Availability

While these rules are intended to preserve and protect the water resources of Hays County, the Commissioners Court of Hays County does not make any warranty - express, implied or otherwise - that subdivisions that comply with these rules will be able to meet the wastewater needs of those purchasing lots within the subdivision.

§3.01 Development Permits

Deleted: Wastewater and

The Department shall issue no On-Site Sewage Facility or development permit on any parcel of land unless that property is in compliance with all the requirements of these Regulations.

§3.02 Developments to be served by a new TCEQ-permitted wastewater system:

Deleted: and the Hays County Rules for On-Site Sewerage, except that:

Applicants proposing to serve a development through a new wastewater system shall submit an engineering report sealed by a Texas licensed professional engineer describing how the proposed development will be provided with wastewater service. The wastewater engineering report shall at a minimum contain the following information:

Deleted: <#>A division of land occurring before June 1, 1984 shall be considered grandfathered;¶
<#>A complete application for subdivision approval received by the Department prior to the effective date of these Regulations shall be considered solely on the basis of the Regulations in effect at the time the complete application was received by the Department.¶
Subdivisions

- (a) A description of how wastewater service will be provided to serve all portions of the development (e.g. platted lots or rental units), including identification of all wastewater collection, treatment, storage, pumping and conveyance facilities and if it is anticipated that any county rights-of-way will be used to locate any wastewater facilities. If the project is to be phased, the description must address all wastewater facilities proposed to be utilized throughout full build-out of the subdivision.
- (b) An estimate of the amount of wastewater that will be treated and managed throughout all phases of development supported by engineering calculations based on the anticipated timetable for full build-out.
- (c) A statement as to whether there are plans for alternative or backup wastewater service; if so, an identification of the alternative or backup wastewater source.

Deleted: subdivision

Deleted: subdivision

Formatted: Bullets and Numbering

- (d) A map showing the location of all wastewater facilities throughout all phases of development as well as the proposed wastewater service area, including any TCEQ-approved service area boundaries of a wastewater service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed ~~development~~.
- (e) Include an estimated timetable for completion of facilities.
- (f) Identification of the proposed method of wastewater effluent disposal or re-use and a listing of any TCEQ permits that will be needed to implement the proposed wastewater disposal or re-use.
- (g) Based on the information available at the time the application is submitted, the anticipated owner(s) and operator(s) of all wastewater facilities throughout all phases of development shall be identified and included in the application.
- (h) For subdivisions subject to the TCEQ Chapter 213 Edwards Aquifer rules, a statement acknowledging that all applicable requirements of such rules will be met.
- (i) If wastewater service is to be provided by a municipal utility district or other special purpose district that has not been created as of the filing of the Preliminary Plan, a detailed description of the proposed district boundaries, a timetable for creation of the district, and identification of the proposed organization of the district.
- (j) Prior to the final approval of the development (e.g. the final plat or the Infrastructure Development Plan), the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide wastewater service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

Deleted: subdivision

§3.03 Developments to be served by an existing TCEQ-permitted wastewater system

Deleted: Subdivisions

Applicants proposing to serve a ~~development~~ through an existing wastewater system shall submit an engineering report sealed by a Texas licensed professional engineer describing how the proposed ~~development~~ will be provided with wastewater service. The wastewater engineering report shall at a minimum contain the following information:

Deleted: subdivision

Deleted: subdivision

- (a) A description of the authority of the existing provider to serve the proposed phase of development.
- (b) A statement as to whether the existing provider has available capacity to serve the proposed phase of ~~development~~.
- (c) A description of the type of wastewater service to be provided (wholesale or retail) and a timetable for the providing of such service to the proposed development.
- (d) A statement as to whether there are plans for alternative or backup wastewater service; if so, an identification of the alternative or backup wastewater source.

Deleted: subdivision

- (e) Identification of any anticipated wastewater service agreements that will need to be executed prior to the provision of service.
- (f) A description of how wastewater service will be provided to serve all portions of the development (e.g. platted lots or rental units), including identification of all wastewater collection, treatment, storage, pumping and conveyance facilities and if it is anticipated that any county rights-of-way will be used to locate any wastewater facilities. If the project is to be phased, the description must address all wastewater facilities proposed to be utilized throughout full build-out of the subdivision.
- (g) An estimated timetable for completion of the improvements.
- (h) A map showing the location of all wastewater facilities throughout all phases of development as well as the proposed wastewater service area, including any TCEQ-approved service area boundaries of a wastewater service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed subdivision.
- (i) For subdivisions that are regulated by the Edwards Aquifer Authority or the TCEQ Chapter 213 Edwards Aquifer rules, a statement acknowledging that all applicable requirements of such rules will be met.
- (j) Prior to the approval of the final plat the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

§3.04 Developments to be served by On-Site Sewage Facilities:

Applicants proposing to serve a development by On-Site Sewage Facilities shall submit an engineering report sealed by a Texas licensed professional engineer describing how the proposed development will be provided with wastewater service. The wastewater engineering report shall at a minimum contain the information required by Item §715.03.02, and must meet the requirements of Chapter §741, “On-Site Sewage Facilities”.

- Deleted: Subdivisions
- Deleted: subdivision
- Deleted: subdivision
- Deleted: section
- Deleted: 5.1(d)(4)
- Deleted: Article IX

CHAPTER 721 – ROADWAY STANDARDS

Sub-Chapter §1 - Types of Roadways

§1.01 *Permitted Streets*

All streets, whether maintained by the County or a homeowners association, shall be constructed in accordance with these Regulations and shall be classified as one of the two following types of streets (referred to collectively as "Permitted Streets"):

- (a) Publicly dedicated, paved and to be maintained by the County and constructed pursuant to Section 7.7;
- (b) Private, paved and to be maintained by a Homeowners Association in perpetuity (or until constructed to then-applicable County standards for acceptance of maintenance, and accepted for maintenance by resolution of the Commissioners Court) and constructed pursuant to Section 7.9.

Sub-Chapter §2 - Public Roadways

§2.01 *Dedication to Public*

Any dedication to the public shall be accomplished either by deed conveying a fee simple interest or by a dedication on the plat conveying a perpetual right of way easement in the property to the County for public use. No dedication shall be effective until the Record Plat is recorded. In no event shall any private lot extend into a dedicated roadway.

§2.02 *Design of Public Improvements*

All improvements shall be designed and installed so as to provide, to the maximum extent feasible, a logical system of utilities, drainage and streets and to permit continuity of improvements to adjacent properties.

- (a) Design Criteria and Construction Standards for Streets. The classification and construction standards for all streets shall be determined according to the Average Daily Traffic anticipated for the streets. The standards for paved streets are summarized on Table 7.3a. The Director shall promulgate rules for calculating Average Daily Traffic, provided that all calculations of Average Daily Traffic shall be based on the maximum number of lots that would be permitted in the Subdivision under the Rules of Hays County for On-Site Sewage Facilities, unless the number of future lots is limited by approved plat note, in which case Average Daily Traffic shall be calculated based on the maximum number of lots permitted under such restrictive covenants.
- (b) Incentive for Lots Larger than Five Acres. As an incentive to developers to create lots larger than five acres and to reduce their associated development costs, Country Lane Streets may be constructed, without calculation of the Average Daily Traffic, if all Lots with frontage or access onto the street are
 - (i) larger than five acres in size, (ii) restricted by a plat note limiting development to one single family residence per Lot and prohibiting TCEQ

Regulated Development, and (iii) the application is approved by the Road Director.

- (c) Incentives for Bicycle Paths and Lanes. If portions of a Local Street or Minor Collector are set aside and appropriately designated for the use of bicycles (or a separate bike path is constructed parallel to the street), then the amount of right of way dedicated to such bicycle use shall be credited against the width of required shoulders and the Road Director may reduce the estimated Average Daily Traffic per Lot in determining the design criteria for the street served by the bicycle path/lane, in an amount determined appropriate by the Road Director.
- (d) Clearance of Right of Way. Upon request by the Owner, the Road Director shall, to the extent it is safe and prudent to do so, permit preservation of trees of greater than 10" in diameter, measured one foot from the ground (or the replanting of trees by the Owner), within rights of way of streets classified as Country Lanes, Local Streets and Minor Collectors, with greater preservation of trees permitted along streets with the lower design speed. The Owner shall be responsible for affixing reflectors or other safety devices to any trees preserved within the right of way.

§2.03 Access to Permitted Streets, Flag Lots

Except with respect to Lots served by Shared Access Driveways, each Lot shall have the minimum direct frontage onto a Permitted Street set forth below and Driveways shall be spaced no closer than the minimum space intervals set forth below, depending on the classification of road onto which the Lot has frontage and the driveway has access:

Minimum Road Classification	Direct Minimum Lot Frontage	Minimum Driveway Spacing
Country Lane	30'	50'
Local Street	50'	50'
Minor Collector	100'	75'
Major Collector	150'	120'
Minor Arterial	150'	120'
Major Arterial	150'	120'

- (a) Incentive for Qualifying Lots. Qualifying Lots will be exempt from the minimum lot frontage and driveway spacing requirements specified above if approved by the Road Director and Commissioners Court with due regard to safety concerns. A Qualifying Lot is any Lot that (i) is restricted by plat note to development of a single family residence, (ii) has direct access onto a Permitted Street and (iii) satisfies the minimum Lot size requirements set forth in the Rules of Hays County for On-Site Sewage Facilities.
- (b) Flag Lots. Flag lots shall generally not be permitted, except if approved by the Commissioners Court as consistent with the intent and spirit of these

Regulations. The Director shall advise the Commissioners Court if a proposed Lot constitutes a "flag lot" and the Commissioners Court shall, in reviewing all the circumstances, make the final determination.

7.5 Commercial Driveways. Driveways serving commercial development shall be spaced at the minimum intervals of one hundred fifty feet (150') as set forth in Table 7.3a. Joint-use driveways may be utilized in situations that limit the number of driveway access permits that are issued by either the State of Texas or Hays County to a public road, or where safety concerns provide a satisfactory explanation for its use.

7.6 Shared Access Driveways. Up to one (1) Lot without independent access to a Permitted Street may obtain access to a Permitted Street by means of a Shared Access Driveway if approved by the Commissioners Court. An additional two (2) Lots having independent access to a Permitted Street may also share the use of the Shared Access Driveway. Shared Access Driveways are intended as a means to provide flexibility in the development process, preserve the rural character of the land and avoid excessive infrastructure costs when such costs would provide little or no social benefit. Shared Access Driveways are not intended to serve as a substitute for interior roads. Excessive use of Shared Access Driveways will not be permitted. Any application proposing shared access driveways shall also satisfy the following requirements:

- (a) A plat note must be conspicuously displayed on the plat stating:
 - i. All lots served by a Shared Access Driveway are restricted to one singlefamily residence per lot and if any other Development of a Dwelling Unit occurs on any of the Lots obtaining access through the Shared Access Driveway, then such new Dwelling Unit must be constructed on a separately platted lot with direct frontage onto and physical access to a Permitted Street prior to construction of the Dwelling Unit. A duplex will not be considered a single family residence for purposed of this subparagraph.
 - ii. The homeowners of the Single Family Residences obtaining access through the Shared Access Driveway shall be solely responsible for all maintenance of the driveway, including maintaining any drainage structures associated with the driveway. The driveway must be maintained at all times in a condition that will permit unencumbered vehicular access by emergency vehicles.
- (b) Each of the Lots sharing the use of the Shared Access Driveway shall hold equal, indivisible and unrestricted rights in the Shared Access Driveway, which rights shall be established by recorded easement and the easement shall run with the land of each of the benefited Lots. The easement instrument shall clearly state each Lot's pro rata responsibility with respect to future maintenance or repairs of the Shared Access Driveway. (Shared Access Driveway Agreement)

- (c) The Shared Access Driveway shall be no longer than one quarter mile in length and must have a minimum distance of (a) 200 feet from any other driveway entering onto the Permitted Street and (b) 500 feet from any other Shared Access Driveway.
- (d) The postal address of each of the Lots shall be based on the Permitted Street on which the Shared Access Driveway gains access and the mailboxes for each of the Lots shall be located together along the right of way of the Permitted Street.
- (c) (e) Up to three (3) Lots not having independent access to a Permitted Street may share a Shared Access Driveway with up to two (2) Lots having independent access to a Permitted Street if all other requirements of this Section 7.6 are met and all Lots using or adjacent to the driveway are larger than five acres in size and restricted by Plat note limiting development to one single family residence per Lot and prohibiting TCEQ Regulated Development (as defined in Article II).

7.7 Publicly Maintained and Dedicated Paved Streets. Paved streets dedicated to the public shall be required in all Subdivisions except those satisfying the criteria for private streets, as set forth below. All such paved streets shall be designed and constructed in accordance with the specifications set forth in the Hays County Road Design and Construction Specifications (aka, Appendices III & IV). The boundary lines of all Lots fronting onto a publicly dedicated right of way shall be contiguous with the boundary of the right of way.

Sub-Chapter §3 - Public Roadways

7.8 Privately Maintained Paved Streets. All private streets shall be designed and constructed in accordance with the standards specified in the Hays County Road Design and Construction Specifications (Appendices III & IV) for paved, publicly dedicated streets. Private streets shall be permitted only within a Subdivision satisfying each of the following criteria:

- (a) All Lots within the Subdivision shall have an average size greater than 5 acres in size or the Commissioners Court shall have entered into an approved Development Agreement with the Owner regarding the development of a master-planned community of no fewer than fifty (50) residential lots;
- (b) The following note shall be conspicuously displayed on the Plat:
[Owner], by filing this Plat of Record, and all future owners of property within this Subdivision, by purchasing such property, acknowledge and agree that they Hays County shall have no obligation whatsoever to repair or accept maintenance of the roads shown on this subdivision until and unless [Owner] and/or the _____ Homeowners Association has improved the roadways to the then current standards required by Hays County and the roads have been accepted for maintenance by formal, written action of the County Commissioners Court and the roadway, with

all required right of way, has been dedicated by the owners thereof, and accepted by the County, as a public street. [Owner] and all future owners of property within this Subdivision shall look solely to the _____ Homeowners Association for future maintenance and repair of the roads and streets shown on this Subdivision; and

- (c) Restrictive covenants establishing a homeowners association, shall be placed on record concurrently with the recording of the Record Plat.

7.9 Permit Required for Construction in Right of Way. No driveway or utility construction, mail boxes, landscaping or any other encroachment into public right-of-way or easements shall be allowed without first obtaining a permit from the Road Department.

CHAPTER 725 – ACCEPTANCE OF ROAD MAINTENANCE AND DEVELOPMENT PERMITS

Sub-Chapter §1 - Acceptance of Roadways for Maintenance

§1.01 *Owner's Maintenance Responsibility*

The Owner shall remain responsible for all maintenance and repair of streets within a subdivision until the Commissioners Court, by formal written action or Minute Order, accepts the obligation to maintain and repair such roads. The Commissioners Court's decision to approve a Final Plat or dedication of the right of way for a street shall not be deemed to constitute acceptance of the streets for maintenance.

§1.02 *County Acceptance of Maintenance*

The County shall accept a road or street for maintenance when the following conditions have been satisfied:

- (a) The street has been constructed as a Public Permitted Street in accordance with these Regulations, the Record Plat for the road or street has been recorded and the associated right of way has been dedicated to the public pursuant to these Regulations;
- (b) The Owner has submitted a written request to the Department. If the Owner is no longer available, i.e. has ceased to transact any business or, in the case of an individual, has died, any person owning property with frontage or access onto the street may submit the written request;
- (c) The design engineer has submitted a concurrence letter of substantial completion and compliance, and a set of as-built plans incorporating all changes made during construction, signed and sealed by the engineer of record;
- (d) The Hays County Road Director has performed and approved all required inspections and tests at the completion of each phase of construction of the street, including plasticity index, sub-base and base, tests for compacted density, depth of base and distribution of asphalt (it is the responsibility of the developer to coordinate all inspections and laboratory tests with the Hays County Road Director and not to proceed with construction until proper inspections and tests have been obtained, as required by the Hays County Road Director). Any laboratory tests and test holes shall be at the expense of the developer. In no event will any base be placed on the street until the subgrade has been approved in writing by the Road Director;
- (e) The Hays County Road Director has inspected the street no earlier than 30 days prior to the Commissioners Court's acceptance of the maintenance obligation and has submitted to the Commissioners Court an Inspection Report stating that:
 - (1) the street, in its current condition and with no repairs, upgrades or improvements, is in compliance with the Regulations and all other guidelines in effect at the time of the inspection;
 - (2) the requirements of Section 10.4 below, regarding construction of drainage structures and driveway drain pipes, has been satisfied; and

- (3) the Hays County Road Director recommends acceptance of the street by the Commissioners Court.
- (f) One of the following has occurred:
 - (1) Two (2) years has expired from the date that all streets, drainage (including drain pipes) and other public improvements in the subdivision were first completed and inspected by the Road Department, or
 - (2) The Owner has posted with the Department cash, bond or a letter of credit in a form approved by the Department (a "Maintenance Bond") to secure the proper construction and maintenance of the roads prior to County acceptance thereof in an amount equal to 10% of the construction costs of the streets and drainage improvements for a term of two (2) years following acceptance by the County. The Maintenance Bond will also secure the Owner's compliance with Section 6.6.(d) above. Before release of the Maintenance Bond, the Road Director shall again inspect the roads or streets and the Owner shall remedy all deficiencies prior to release of the Maintenance Bond. If the deficiencies are not promptly remedied, the County shall make the repairs and draw on the Maintenance Bond for payment. Note: A Maintenance Bond must be posted, regardless of the date the streets or roads are accepted by the County, for all streets or roads completed prior to the recording of the Record Plat.

Sub-Chapter §2 - Financial Assurance

§2.01 *Performance Bond*

This section applies if the Owner desires to submit for approval a Final Plat prior to completion of construction of all Permitted Streets and inspection by the Road Director. The Owner shall continue to be responsible for all other requirements set forth in Section 8.2 above.

- (a) With the permission of the Commissioners Court, the Owner shall post a good and sufficient surety bond or letter of credit in an amount equal to 100% of the estimated construction costs of the roads and drainage improvements. The Commissioners Court must individually approve each application to post such a performance bond and the performance bond shall remain in effect until the roads and all associated drainage improvements have been accepted by the County for maintenance pursuant to Section 8.2 above. (also Ref. Section 10.4)
- (b) Before release of the performance bond, the Road Department shall inspect the roads and the Owner shall remedy all deficiencies prior to release of the security. If the deficiencies are not properly remedied, the County shall draw on the security to make the necessary repairs.
- (c) If the roads and drainage improvements are meant for public maintenance, at the time of the release of the construction security, a maintenance bond in the amount of 10% of the actual cost shall be posted with the County for a period of two (2) years.

Sub-Chapter §3 - Construction

§3.01 *Installation of Utility Lines*

All utility lines planned to be constructed under a paved street shall be installed before the street is paved. All utility lines installed under an existing paved street shall be bored to a point at least 4 feet beyond the edge of pavement and must be approved in advance by the Road Director, unless otherwise approved by the Commissioners Court.

§3.02 *Temporary Construction Erosion Controls*

All construction of roads or streets, whether public or private, shall comply with the Temporary Construction Erosion Controls Manual attached to these Regulations as Appendix IV.

§3.03 *Construction of Roads Prior to Final Plat.*

Upon approval of a Preliminary Plan, an Owner may apply to the Road Director to commence construction of roads, streets, utilities and drainage structures within the right of way. This application will be granted upon the Road Director's review and approval of the Construction Plans and other materials required in Sections 6.4 or 6.5, as applicable. An Owner wishing to construct road, street or other improvements prior to the approval of a Final Plat shall be required to post a Performance Bond upon approval of the Final Plat satisfying the requirements of Section 8.2(e)(ii) and 8.3(a) above.

§3.04 *Development Permits*

No Development Permit for a Lot shall be issued until the subgrade of the Permitted Street serving the Lot has been completed and, if applicable, installation of all underground utilities.

CHAPTER 731 – DRAINAGE AND FLOOD CONTROL STANDARDS

Sub-Chapter §1 - Scope and Applicability

§1.01 *Applicability*

Stormwater runoff from any proposed development may not be released onto adjacent property owners or into any county drainage ditch, swale, easement, culvert or other facility or any such drainage facility associated with an existing road, whether public or private, at a rate greater than when the property was in its undeveloped condition. Discharge calculations shall be based on fully developed conditions. The Director may require the submission of additional materials at the time of the Preliminary or Final Plat application to assure the proposed subdivision will be in compliance with this Section.

§1.02 *Incentives for Lots Larger Than Five Acres*

If all Lots in a subdivision are larger than five acres and restricted by plat note limiting future development to one single family residence per Lot and prohibiting TCEQ Regulated Development (as defined in Article II), then such subdivision shall be deemed to be in compliance with this Section 10.1 and no additional materials need be submitted to demonstrate compliance to the Director.

Sub-Chapter §2 - Design Criteria

§2.01 *Sizing of Drainage Facilities*

All drainage facilities for residential (single family or duplex residences) subdivisions including ditches, drainage pipes, street curbs, gutter inlets, driveway or road culverts, and storm sewers shall be designed to intercept and transport runoff from the following frequency storm, based upon the classification of Permitted Street affected by the drainage structure, as set forth below.

Classification of Street	
Affected by Drainage	Structure Storm Frequency
Country Lane	5 year
Local Street	10 year
Minor Collector	15 year
Major Collector	25 year
Minor Arterial	25 year
Major Arterial	25 year

- (a) Incentive for Lots Larger than Five Acres. Notwithstanding the preceding requirements, all drainage structures affecting Local Streets or Minor Collectors may be designed based on a five-year storm frequency if all Lots in the subdivision are restricted by plat note limiting future development to one single family residence per Lot and prohibiting TCEQ Regulated Development (as defined in Article II) and the design of such drainage

structures is approved by the Director. All drainage construction will, however, be subject to the remainder of this Article 10.

- (b) Drainage Facilities for Other Subdivisions. For all drainage facilities serving Lots not intended for use as single family or duplex development, drainage and all drainage facilities shall be designed by a Registered Professional Engineer according to 25-year storm event calculations.

§2.02 *Conveyance of 100-Year Storm Frequency Flows*

In addition to 10.2 above, the drainage system shall be designed to convey all channelized or concentrated flows from a 100 year frequency storm within defined right-of-way or drainage easements, which shall not be narrower than twenty feet (20') in width.

§2.03 *Maximum Headwater Elevation for Drainage Crossings*

All roads, culverts underneath roads, and bridges shall be designed so that stormwater runoff from the frequency storm event designated below crossing such road or bridge shall not produce a headwater elevation at the roadway greater than 6 inches above the roadway crown elevation, based upon the classification of Permitted Street affected by the drainage structure:

Classification of Street	
Affected by Drainage	Structure Storm Frequency
Country Lane	25 year
Local Street	25 year
Minor Collector	25 year
Major Collector	100 year
Minor Arterial	100 year
Major Arterial	100 year

- (a) Incentive for Lots Larger than Five Acres. Notwithstanding the preceding requirements, all Country Lanes, Local Streets or Minor Collectors, and culverts underneath such roads, may be designed based on a ten-year storm frequency if all Lots in the subdivision are restricted by plat note limiting future development to one single family residence per Lot and prohibiting TCEQ Regulated Development (as defined in Article II) and the design of such drainage structures is approved by the Director. All drainage construction will, however, be subject to the remainder of this Article 10. This incentive shall not apply to bridges.
- (b) A permanent depth gauge shall be placed at all road crossings where the 100 year frequency flow or lesser frequency is anticipated to flow over the road surface. The Commissioners Court may require installation of gates or warning devices at all or some of such locations.

- (c) All roads and streets shall be designed and constructed to withstand the impact of water being impounded adjacent to and flowing over the road or street.
- (d) This Section 10.5 does not apply to driveway culverts.

§2.04 *Drainage Design Methodology*

Computations by a registered professional engineer to support all drainage designs shall be submitted to the Department for review. The methodologies shall be based upon commonly accepted engineering practices used within the area.

- (a) All computations of flood plains, culverts, channels, etc. shall be based on fully developed upstream conditions.
- (b) A drainage area of 64 acres or greater is required within a contributing watershed to create a "flood plain." For areas of flow with less than 64 acres of contributing area, no flood plain shall be defined; however, any concentrated flow necessitates the dedication of a drainage easement.

10.4 Completion of Drainage System Prior to Acceptance of Road Maintenance. No streets will be accepted for maintenance by the County until all drainage structures, including drain pipes for all driveways constructed as of the acceptance date, have been (i) installed by the Owner or occupant(s) of the Lot(s) and (ii) inspected and approved by the Road Department.

10.7 Easements.

- (a) All flood plains and concentrated flows for the 100 year storm frequency shall be contained within a dedicated drainage easement or right-of-way, however, studied floodplains may be defined with base flood elevations and established regulatory floodway boundaries without the use of drainage easements.
- (b) Development will be allowed within the flood plain or within a drainage easement only on a case by case basis, and in any event any structures constructed within the flood plain must be above the base floor elevation. No development whatsoever will be permitted in the floodway.

CHAPTER 735 –FLOOD DAMAGE PREVENTION

Sub-Chapter §1 - Statutory Authorization, Findings of Fact, Purpose and Methods

§1.01 *Statutory Authorization*

The Legislature of the State of [Texas](#) has in TEXAS WATER CODE ANNOTATED Sections 16.313, 16.315, and 16.318 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Commissioners Court of [Hays County, Texas](#), does ordain as follows:

§1.02 *Findings of Fact*

- (a) The flood hazard areas of Hays County are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

§1.03 *Statement of Purpose*

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (f) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (g) Insure that potential buyers are notified that property is in a flood area.

§1.04 *Methods of Reducing FloodLosses*

In order to accomplish its purposes, this ordinance uses the following methods:

- (a) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (d) Control filling, grading, dredging and other development which may increase flood damage;
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Sub-Chapter §2 - Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

APPEAL BOARD- means the Hays County Commissioners Court

APPURTENANT STRUCTURE – means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure

AREA OF FUTURE CONDITIONS FLOOD HAZARD – means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

AREA OF SHALLOW FLOODING - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

BASE FLOOD - means the flood having a 1 percent chance of being equaled or exceeded in any given year.

BASEMENT - means any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING – means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ELEVATION STUDY – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) – see *Flood Elevation Study*

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited

to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY – see *Regulatory Floodway*

FUNCTIONALLY DEPENDENT USE - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior or;
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

RIVERINE – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA – see *Area of Special Flood Hazard*

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring

of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE – means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Sub-Chapter §3 - General Provisions

§3.01 *Lands to Which This Ordinance Applies*

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Hays County, Texas.

§3.02 *Basis for Establishing the Areas of Special Flood Hazard*

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance

Study for Hays County Texas" dated February 18, 1998 with the most effective Flood Insurance Rate Maps and/or Flood Boundary- Floodway Maps (FIRM and/or FBFM) dated September 2, 2005.

§3.03 *Establishment of Development Permit System*

A Development Permit System is hereby established to ensure compliance with the provisions of this court order. This system shall require application for a Development by the Person, or their Agent proposing the development. The issuance Of a Class B Floodplain Development Permit shall be for those developments which qualify for such permit and are located on real property associated with flood hazard areas. Development located on real property for which there is no Flood Hazard area delineated will be issued a Class A (Exemption Certificate) permit. The permit shall state that the proposed development is located on real property that does not lie within an identified Flood Hazard Area and that the construction standards contained in this court order are not applicable to the proposed development.

§3.04 *Compliance*

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

A county-wide application system is a necessary and reasonable action to insure that all permits for development in flood hazard areas have been obtained. The Commissioners Court through the Floodplain Administrator will develop and promulgate any/all forms as may be necessary for the implementation of this court order.

Additional floodplain data may be generated which will improve the accuracy of floodplain boundary identification. Since the County will constantly be aware of map changes and additional data, the responsibility for determining whether a property or development is within a flood hazard area must rest with the Hays County Floodplain Administrator. Flood Hazard Boundary Maps published by the Federal Insurance Administration delineate only the major flood prone areas within the County. With a County-wide review procedure, the Floodplain Administrator will be able to make recommendations for construction standards which will minimize or eliminate the possibility of damage from localized drainage problems.

§3.05 *Abrogation and Greater Restrictions*

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§3.06 *Interpretation*

In the interpretation and application of this ordinance, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

§3.07 *Warning and Disclaimer of Liability*

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

§3.08 *Establishment of Fees*

The Commissioners Court, upon the recommendation of the Floodplain Administrator, shall establish application fees commensurate with the service rendered by the County. Development fees are payable at the time of application.

Sub-Chapter §4 - Administration**§4.01 *Designation of the Floodplain Administrator***

The Director of Hays County Environmental Health is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

§4.02 *Duties and Responsibilities of the Floodplain Administrator*

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (f) (1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
- (g) (2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (h) (3) Review, approve or deny all applications for development permits required by adoption of this ordinance.
- (i) (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (j) (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
- (k) (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is The Texas Commission on Environmental Quality, prior to any

alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

- (l) (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (m)(8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
- (n) (9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (o) (10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community first completes all of the provisions required by Section 65.12.

§4.03 *Permit Procedures*

(1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- (a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - (b) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - (c) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B (2);
 - (d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 - (e) Maintain a record of all such information in accordance with Article 4, Section (B)(1);
- (2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
- (a) The danger to life and property due to flooding or erosion damage;
 - (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

- (c) The danger that materials may be swept onto other lands to the injury of others;
- (d) The compatibility of the proposed use with existing and anticipated development;
- (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- (g) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- (h) The necessity to the facility of a waterfront location, where applicable;
- (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

§4.04 *Variance Procedures*

- (1) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this ordinance.
- (2) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- (3) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- (4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
- (6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C (2) of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).
- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- [10) Prerequisites for granting variances:
 - (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(b) Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Article 4, Section D (1)-(9) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Sub-Chapter §5 - Provisions for Flood Hazard Reduction

§5.01 *General Standards*

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§5.02 *Specific Standards*

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), the following provisions are required:

- (1) **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land

surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C (1) a., is satisfied.

(2) **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(3) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (a) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
- (b) The bottom of all openings shall be no higher than 1 foot above grade.
- (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) **Manufactured Homes** -

(a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the

community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

(i) the lowest floor of the manufactured home is at or above the base flood elevation, or
(ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

§5.03 *Standards for Subdivision Proposals*

(1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance, and shall be approved by the County Floodplain Administrator prior to final approval for recording of the plat by the Commissioners Court. Plat specifications and details for submission will be governed by the County Subdivision Regulations and this Court Order.

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this ordinance.

(4) All subdivision plats shall have the Floodplain and Floodway clearly delineated on the plat and, where appropriate, shall have the lowest floor elevations for all lots located within Flood Hazard Areas.

(5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(6) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(7) All subdivision proposals which include land which is encroached by areas of special flood hazard, must include the placement of a permanent benchmark indicating the elevation relative to mean sea level. The benchmark must be located with the platted property, and must be indicated on the subdivision plat.

§5.04 *Standards for Areas of Shallow Flooding (AO/AH Zones)*

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).
- (2) All new construction and substantial improvements of **non-residential** structures;
 - (a) have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or
 - (b) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C are satisfied.
- (4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

§5.05 *Floodways*

Floodways - located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** completes all of the provisions required by Section 65.12.

§5.06 *Severability*

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

§5.07 *Penalties for Non-Compliance*

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements is subject to the following penalties:

CIVIL PENALTY: A person who violates this order is subject to a civil penalty of not more than \$100 for each act of violation and for each day of violation.

CRIMINAL PENALTY: (a) A person commits an offense if the person violates this order.

(b) An offense under this section is a Class C misdemeanor.

(c) Each violation of this subchapter and each day of continuing violation is a separate offense.

ENFORCEMENT BY POLITICAL SUBDIVISION:

(a) If it appears that a person has violated, is violating, or is threatening to violate this subchapter or a rule adopted by order issued under this subchapter, a political subdivision may institute a civil suit in the appropriate court for:

- (1) injunctive relief to restrain the person from continuing the violation or threat of violation, including an order directing the person to remove illegal improvements and restore preexisting conditions;
- (2) the assessment and recovery of the civil penalty; or
- (3) both the injunctive relief and the civil penalty.

(b) On application for injunctive relief and a finding that a person has violated, is violating, or is threatening to violate this order or rule adopted, or order issued under this subchapter, the court shall grant the injunctive relief that the facts warrant.

Nothing herein contained shall prevent Hays County from taking such other lawful action as is necessary to prevent or remedy any violation.

CHAPTER 741 – ON-SITE SEWAGE FACILITIES

Sub-Chapter §1 - Preamble and Purpose

§1.01 *Preamble*

The Texas Natural Resource Conservation Commission has established Design Criteria for on-site sewage facilities to provide the citizens of Texas with adequate public health protection and a minimum of environmental pollution; and

The Legislature has enacted legislation, codified as Texas Health and Safety Code, Chapter 366, which authorizes a local government to regulate the use of on-site sewage disposal facilities in its jurisdiction in order to abate or prevent pollution, or injury to public health arising out of the use of on-site sewage facilities; and

Due notice was given of a meeting and public hearing to determine whether the Commissioners Court of Hays County, Texas, should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Hays, Texas; and

Said meeting and public hearing were held in accordance with the notice thereof, and the evidence and argument there presented were considered by the Commissioners Court of Hays County, Texas; and

The Commissioners Court of Hays County, Texas, finds that the use of on-site sewage facilities in Hays County, Texas, is causing or may cause pollution, and is injuring or may injure the public health; and

The Commissioners Court of Hays County finds that the Texas Natural Resource Conservation Commission has identified the Edwards Aquifer as being one of the most sensitive aquifers in Texas to groundwater pollution; and

The Commissioners Court of Hays County, Texas, finds that soil conditions in those portions of Hays County situated over the Recharge Zone of the Edwards Aquifer are generally porous limestone susceptible to rapid transportation of pollutants and therefore, in order to protect the public health, safety and welfare of the residents of Hays County, additional protective measures are appropriate and necessary for the use of on-site sewage systems within those portions of Hays County; and

The Commissioners Court of Hays County finds that portions of Hays County within the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer and other areas in western Hays County have been designated by the Texas Natural Resource Conservation Commission as within the "Hill Country Critical Area" (now a Priority Groundwater Management Area) pursuant to Chapter 35 of the Texas Water Code and 30 Texas Administrative Code ("TAC") §294.24; and

I. The Commissioners Court of Hays County finds that the United States Fish and Wildlife Service has described the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer as a porous limestone, karst aquifer that is heavily influenced by the introduction of pollutants into its recharge features; and

The Commissioners Court of Hays County finds that the Texas Natural Resource Conservation Commission, for the stated purpose of protecting existing and potential uses

of groundwater, has implemented special protective regulations for the Recharge Zone of the Edwards Aquifer under the Edwards Aquifer Rules promulgated as Chapter 213 of the Texas Administrative Code; and

The Commissioners Court of Hays County finds that soils within the Glen Rose Formation within the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer have been described as highly variable, stony and fragile systems easily subject to degradation and that the Glen Rose Formation is characterized by a stair-step topography with alternating hard limestone/dolomite beds and soft marly beds which is highly susceptible to lateral discharge of groundwater through seeps directly into creeks and other bodies of surface water; and

The Commissioners Court of Hays County, Texas, upon public hearings, has received public comment from a broad spectrum of residents of Hays County seeking more stringent protective measures for the use of on-site sewage facilities in rural areas of Hays County including those areas within the Recharge Zone of the Edwards Aquifer and the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer; and

The Commissioners Court of Hays County finds that protecting water resources is vital to human health and that virtually all residents within Hays County depend solely upon groundwater for their drinking water; and

The Commissioners Court of Hays County adopts Section 10 of these Rules as water availability requirements pursuant to Section 35.019 of the Texas Water Code and finds that these Rules are necessary to prevent current or projected water use in the county from exceeding the safe sustainable yield of the county's water supply; and

The Commissioners Court of Hays County finds that the population of Hays County has grown at an average annual rate of approximately five percent (5%) since 1990 and it is expected that similar or faster growth rates will be experienced in the future with much of this growth occurring within the unincorporated areas of Hays County; and

The Commissioners Court of Hays County finds that all or most of the projected future growth within the unincorporated areas of Hays County is expected to rely on on-site sewage facilities and to obtain drinking water from groundwater and that more stringent regulations of on-site sewage facilities within the Recharge Zone of the Edwards Aquifer, the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer and those portions of Hays County within the Hill Country Priority Groundwater Management Area are necessary and appropriate to avert public health hazards resulting from such increased use of on-site sewage facilities; and

The Commissioners Court of Hays County, Texas, has considered the matter and deems it appropriate to enact an Order adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in Hays County, Texas.

§1.02 Findings

THAT the matters and facts recited in the preamble hereof are hereby found and determined to be true and correct;

THAT the use of on-site sewage facilities in Hays County, Texas is causing or may cause pollution or is injuring or may injure the public health;

THAT an Order for Hays County, Texas, BE adopted entitled "On-Site Sewage Disposal," which shall read as follows: AN ORDER ENTITLED ON-SITE SEWAGE DISPOSAL

§1.03 *Conflicts*

All Orders or parts of the Orders of Hays County, Texas, not consistent with or in conflict with the provisions of this Order are hereby repealed.

Sub-Chapter §2 - Jurisdiction

§2.01 *Area of Jurisdiction*

(a) The Rules shall apply to all the area lying in Hays County, Texas, except for the area regulated under an existing Rule and the areas within incorporated cities.

(b) These Rules shall apply to those incorporated cities or towns that have executed intergovernmental contracts with Hays County, Texas.

§2.02 *Regulated Activities*

Any structure discharging sewage into an on-site sewage facility within the jurisdictional area of Hays County, Texas must comply with the Rules adopted in Sections 8 and 10 of this Order.

Sub-Chapter §3 - Adoptions and Incorporations

§3.01 *Adopting Chapter 366 of the Texas Health and Safety Code*

The County of Hays, Texas, clearly understands the technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, does adopt and will fully enforce Chapter 366 of the Texas Health and Safety Code.

§3.02 *Adopting the On-Site Sewage Facility Rules of the TCEQ*

The Rules ("Design Criteria For On-Site Sewage Facilities," Texas Administrative Code 30 TAC 285.1-285.91), attached hereto, promulgated by the Texas Natural Resource Conservation Commission for on-site sewage systems are hereby adopted, and all officials and employees of Hays County, Texas, having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

§3.03 *Incorporation by Reference*

The Design Criteria (30 TAC 285.1-285.91) and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules. A copy of the current Design Criteria is attached to these Rules.

SECTION 10. AMENDMENTS.

The County of Hays, Texas, wishing to adopt more stringent Rules for its On-Site Sewage Facility Order understands that the more stringent conflicting local Rule shall take precedence over the

corresponding Texas Natural Resource Conservation Commission requirements if local rules provide

greater public health and safety protection. Listed below are the more stringent Rules adopted by Hays

County, Texas:

10.1 Facility Planning

(a) Land Planning and Site Evaluation. All of the terms and provisions of 30 TAC Section 285.4 are incorporated within the Rules of Hays County except as expressly amended below.

(1) RESIDENTIAL LOT SIZING

(A) Platted or unplatted Lots served by Surface Water or Rainwater Collection Systems. Lots used for Single Family Residences platted or created after the

Effective Date of these Rules and served by a Surface Water or Rainwater Collection System shall

have surface areas of at least the acreage designated in Table 10.1(A).

(B) Platted or unplatted Lots served by Public Water Wells.

Lots used for Single Family Residences platted or created after the Effective Date of these Rules and

served by a Public Water Well shall have surface areas of at least the acreage designated in Table

10.1(B).

(C) Platted or unplatted Lots served by Private Wells or other

water systems. Lots used for Single Family Residences platted or created after the Effective Date of

these Rules and served by a Private Well or any water system other than those described in 10.1(A) or

10.1(B) above shall have surface areas of at least the acreage designated in Table 10.1(C).

(2) CERTAIN MULTI-UNIT RESIDENTIAL DEVELOPMENTS SERVED BY A
5

CENTRAL SEWAGE COLLECTION SYSTEM FOR ON-SITE DISPOSAL.

Non-Single Family residential developments with four or fewer living units, such as duplexes, may

utilize lots smaller than stated in paragraphs (1)(A), (1)(B) and (1)(C) of this Section provided:

(A) Site Specific Materials, addressing either a central system or individual systems, and Site Evaluation Materials are submitted to the Department and approved by the Commissioners Court.

(B) There are no more than two living units per each minimum lot acreage that would be applicable under Tables 10.1(A), 10.1(B) or 10.1(C); provided that in no event

shall lot acreage be lower than permitted under Chapter 366 of the Texas Health and Safety Code or

other applicable State law.

(3) APARTMENTS, CONDOMINIUMS, INSTITUTIONAL USES OR
NONRESIDENTIAL
(BUSINESS, COMMERCIAL OR INDUSTRIAL).

Platted or unplatted Lots used for apartment or condominium complexes with more than four (4) units,

institutional uses or non-residential uses, including office, commercial or industrial uses producing

domestic wastewater shall:

(A) Be sized and designed pursuant to a sewage disposal plan submitted to the Director and approved by the Commissioners Court, which shall be based upon

approved Site Specific Materials and Site Evaluation Materials; and

(B) Have a surface acreage of at least one (1) acre for each living unit equivalent (LUE) per day. A Living Unit Equivalent is defined as three hundred and fifty (350)

gallons of sewage per day.

(b) Averaging. The minimum acreage requirements set forth in Tables 10.1(A), 10.1(B) and 10.1(C) may be obtained by averaging the size of all Lots within a platted development so

long as the only Lots with acreage exceeding the minimum set forth in such table that may be included

in the averaging calculation shall be: (i) Lots reserved by plat note for use as a publicly dedicated and

accepted park, or a private greenbelt in which all owners or residents of the subdivision hold an equal,

unrestricted and indivisible right of access and use, or (ii) Lots larger than five acres restricted by a plat

note prohibiting all development other than one Single Family Residence or other development

excluded from the term "Regulated Activities" under the Edwards Aquifer Rules of the TNRCC (30

TAC Chapter 313), but without regard to the aquifer over which the development occurs. Only

platted development may take advantage of these averaging provisions.

(1) Notwithstanding the averaging allowed above or anything else to the contrary in this Paragraph 10, no on-site sewage facility shall be permitted on any Lot smaller than the

minimum lot size permitted under Chapter 366 of the Texas Health and Safety Code and the

Regulations promulgated thereunder (30 TAC Chapter 285).

6

10.2 Minimum Required Separation Distances for On-Site Sewage Facilities.

(a) The minimum separation distances set forth in Table X of the Rules for soil absorption systems, unlined ET Beds and soil irrigation spray areas for Lots created or platted after the

Effective Date of these Rules are supplemented as follows:

1. Barton Creek, Bear Creek, Blanco River, Cottonwood Creek, Cypress Creek, Little Bear Creek, Lone Man Creek, Long Branch, Onion Creek, Purgatory Creek, Roy Creek, San Marcos River, Sink Creek, Smith Creek, Willow Creek, and Wilson Creek (measured from the bank at average pool height): 150'

2. Property lines: 20'

3. Vegetable gardens or orchards: 20'

10.3 Water Well Sanitary Easements.

Individual Lots in which a Private Well is to be located shall provide, within the boundary of each Lot,

an area with a one hundred (100) foot radius around the well in which no on-site sewage facility may

be located. This area shall be designated as a private water well sanitary control easement. Applicants

seeking subdivision approval from Hays County may, upon application for preliminary plat approval,

apply for an exemption from the requirement that the 100-foot sanitary easement be located within the

boundaries of the Lot if the easement is clearly depicted on the plat and the location is approved by the

Commissioners Court. Public Water Wells shall comply with the sanitary control easements required

under 30 TAC Chapter 290, as amended.

10.4 Cluster and Innovative Development

Cluster development and innovative development, such as "planned unit development" style

developments, are encouraged and will be considered on a case by case basis, upon the submission of

the following with a preliminary plat application for subdivision approval:

1. Site Evaluation Materials demonstrating that such a cluster or innovative development is appropriate in light of lot sizes, soil or other conditions;

2. Site Specific Materials;

3. Site Plan to be recorded with Record Plat, which shall state the future development of the Property shall be in accordance with the Site Plan. The Site Plan shall designate the type of development permitted on each Lot, the location of buildings, paved areas, green belts and on-site sewage facilities (including drainage fields) on each Lot; and

4. All other materials required under Sections 285.6 and 285.30 of the Rules, as applicable.

The Commissioners Court may approve an application for cluster or innovative development

permitting minimum lot acreage below those required in 10.1(a) above upon a finding that the

proposed development will provide equivalent protection of the public health and environment as

7

development in accordance with this Section 10 and the remainder of these Rules.

10.5 Variances.

Requests for variances from these Rules shall be considered in accordance with the criteria specified in Section 285.3(c) of the Rules and the following additional criteria:

(a) Only lots platted in accordance with the Hays County Subdivision and Development Regulations or legally in existence prior to the Effective Date of these Rules will be

eligible for a variance; and

(b) Site Specific Materials and Site Evaluation Materials must be submitted with the preliminary plat application for each Lot for which a variance is sought, with detailed soil profile

analysis of the proposed absorption field site demonstrating soil characteristics that meet or exceed the

criteria for suitable soils set forth in Table V of the Rules.

The Commissioners Court shall have discretion to approve or deny an application for a variance and

may approve an application for a variance only upon a finding that (a) development pursuant to the

proposed variance will provide equivalent protection of the public health and environment as

development in strict accordance with these Rules, including Paragraph 10, and (b) that there are

special circumstances or conditions affecting the land involved such that strict application of the

provisions of these Rules would deprive the applicant the reasonable use of his land and that failure to

approve the variance would result in undue hardship to the applicant. Pecuniary hardship, standing

alone, shall not be deemed to constitute undue hardship.

10.6 Permitting Procedures and Additional Requirements

The Hays County Commissioners Court may from time to time adopt local procedural requirements for applications, permitting and inspection procedures for On-Site Sewage Facilities.

10.7 Amendment to Section 285.34(b)(2) (Pump Tank Sizing)

Pump tanks shall be sized for one day of flow above the alarm-on level. (Amended portion in

italics).

Comment: This more stringent standard affords a greater level of public health protection by

assuring that households will be able to continue using their wastewater facilities for up to one day

following a system failure. Hays County is a rural area served by a limited number of wastewater

pumping services and it is unrealistic to expect that pumps can be repaired or replaced sooner than one day after a failure.

10.8 Amendment to Section 285.33(a)(1)(A) Criteria for Sewage Disposal System Excavations

Comment: This more stringent standard is adopted to prevent excessive deviation in longer trenches, which would contribute to surface failures at the lowest elevation of the trench.

8
The bottom of the excavation shall be not less than 18 inches in width and level to within one inch over each 25 feet of excavation, but in no event shall there be more than two inches of fall over the entire length of the excavation. (Amended portion in italics).

10.9 Amendment to Section 285.33 (a)(1)(B) (Porous Media)

Chipped tires or iron slag are not a permitted medium.

Comment: Unacceptable levels of iron bacteria have been detected in approximately seventy percent (70%) of wells in Hays County. Hays County has no shortage of gravel for drainfield media and thus there is less need for alternative media.

10.10 Amendment to Section 285.7 (Additional Requirements for Surface Irrigation Systems)

The following requirements are imposed in addition to those set forth in Section 285.7 for an

On-Site Sewage Facility utilizing surface irrigation:

- (a) Licenses to operate an On-Site Sewage Facility utilizing surface irrigation shall be valid for two years.
- (b) Surface irrigation shall be limited to sprinkler application only.
- (c) All On-Site Sewage Facilities utilizing surface irrigation shall be designed to facilitate periodic sampling.
- (d) Effluent discharge lines shall be equipped with a 100 mesh or smaller filter.

Comment: This more stringent standard affords a greater level of public health protection by assuring that excessive levels of solids in effluent, which may be an indication of inadequate treatment, will be filtered and more quickly detected.

10.11 Miscellaneous

- (a) A permit will be required for all On-Site Sewage Facilities, regardless of the size of the lot or acreage onto which it is installed.
- (b) Construction of an On-Site Sewage Facility must be commenced within 12 months and completed within 16 months of the date of the application for a permit.
- (c) French drains used to support and protect On-Site Sewage Facilities shall be upgradient of the On-Site Sewage Facility and shall be designed by a registered engineer to prevent

stormwater drainage from entering into the On-Site Sewage Facility. An applicant desiring to install a french drain must demonstrate that its use will afford a greater level of public health by diverting

9

stormwater away from the On-Site Sewage Facility.

(d) Effluent holding tanks shall be authorized only for temporary use for 90 days, with one 90 day renewal. The permittee must provide metered water usage and pumping manifests.

(e) Property owners requesting certification of existing systems will be required to submit a pumping report to the Department in a form acceptable to the Department containing at least the following information: (i) verification that the septic tank has been pumped within the previous three years; and (ii) the tank capacity and depth of sludge, provided that pumping reports performed prior to the effective dates of these Rules will not be required to identify tank capacity and depth of sludge. Upon review of the pumping report, the Department, upon approval by the Commissioners Court, may require that the septic system be upgraded to satisfy current technical requirements (other than minimum lot acreage) prior to certification.

10.12 Definitions.

The following terms shall have the meanings ascribed to them below when used in this Order

or the attached Tables:

Conventional Septic System - On or off site sewerage facilities including septic tanks, sewage holding tanks, chemical toilets, treatment tanks and all other such facilities and systems other

than Public Sewer Systems and Permitted Class I On-Site Wastewater Systems.

Contributing Zone of the Barton Springs Segment of the Edwards Aquifer - Any land within the watersheds of Barton, Onion, Slaughter, Williamson, Bear and Little Bear Creeks. In the event an Applicant cannot determine with specificity the location of the boundary of the Contributing

Zone of the Barton Springs Segment of the Edwards Aquifer, the Applicant may submit appropriate maps and other evidence as may be requested by the Department for assistance in such determination from the Department.

Department - The Hays County Environmental Health Department.

Edwards Aquifer Recharge Zone - Any area identified as such by the Edwards Aquifer Rules. In the event an Applicant cannot determine with specificity the location of the boundary of the

Edwards Aquifer Recharge Zone, the Applicant may submit appropriate maps and other evidence as may be requested by the Department for assistance in such determination from the Department. Any determination by the Department will affect only these Regulations and will not in any manner be binding upon the TNRCC. The Department may require the Applicant to obtain a determination from the TNRCC and any determination by the TNRCC regarding the location of the Recharge Zone will control for purposes of these Regulations. The intent of these Regulations is to coordinate applicable state and local regulations such that the definition of the Edwards Aquifer Recharge Zone under these Regulations shall be identical with the definition found within the Edwards Aquifer Rules.

Edwards Aquifer Rules - The Regulations promulgated by the Texas Natural Resource Conservation Commission relating to the Edwards Aquifer, currently set forth in Title 30 Texas Administrative Code Chapter 213, as amended from time to time.

Permitted Class I On-Site Wastewater System - An on-site system of sewage treatment other than a septic tank producing no more than 5,000 gallons of sewage per day, which has been licensed by the Department, utilizing advanced treatment processes to produce Class I effluent (as defined in National Sanitation Foundation Testing Standard 40) and designed to encourage the reuse of wastewater for irrigation on the premises. A collective off-site system for cluster development may also be approved by the Department on a case by case basis in accordance with the Rules.

Private Well - Any water well other than a Public Water Well.

Public Sewer System - Any public or private sewerage system for the collection of sewage that flows into a treatment and disposal system that is regulated pursuant to the rules of the Texas Natural Resource Conservation Commission and Chapter 26 of the Texas Water Code.

Public Water Well - A water well providing piped water for human consumption with a potential to serve to at least 15 service connections on a year-round basis or serving at least 25 individuals on a year-round basis. This definition includes all wells defined as a "Community Water System" or a "Public Water System" under Chapter 290 of the Texas Administrative Code.

Rainfall Collection System - An individual potable water supply system approved by

the Department and having rainwater as its source and having a capacity sufficient to provide all of the domestic water requirements other than irrigation for development on the Lot. The Department may approve rainfall collection systems using a well for emergency/back-up domestic water requirements on a case by case basis.

Single Family Residence - Any habitable structure constructed on, or brought to, its site and occupied by members of a family, including but not limited to manufactured homes situated on leased space.

Site Evaluation Materials - The site evaluation materials described in Section 285.30 of the Rules.

Site Specific Materials - The facility planning materials described in Sections 285.4 of the Rules and, if applicable, Sections 285.5, 285.6, 285.7 and 285.40 of the Rules.

Surface Water - Water from streams, rivers or lakes or other bodies of water above the surface of the ground and obtained without pumping or extracting underground water.

Water that is obtained from groundwater or other underground sources through wells, pumps or other means designed to accelerate natural flows from such underground source and which is then stored in a surface reservoir shall not be considered surface water. In the event any water supply system relies primarily on surface water, with reliance upon groundwater only for back-up supplies or a small percentage of the total water supplied, the Commissioners Court may, on a case by case basis, approve an application to consider such water supply system as qualifying as a Surface Water system under these Rules.

11

SECTION 11. DUTIES AND POWERS.

The Director of the Environmental Health Department of Hays County, Texas, and any individuals approved pursuant to the succeeding sentence, are herewith declared the designated

representative(s) for the enforcement of the Rules within the jurisdictional area of Hays County. The

appointed individual(s) must be approved and certified by the Texas Natural Resource Conservation

Commission before assuming the duties and responsibilities of the Designated Representative of Hays

County.

SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to the Hays County

Treasurer.

SECTION 13. APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such

action or decision to the Commissioners Court of Hays County, Texas.

SECTION 14. PENALTIES.

This Order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, including, but not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapter 26 of the Texas Water Code and 30 TAC Chapter 285.

A person commits an offense if the person violates a requirement of these Rules. An offense

under this provision is a Class C misdemeanor punishable by fine.

At the request of the Commissioners Court, the county attorney or other prosecuting attorney

for the County may file an action in a court of competent jurisdiction seek one or all of the following:

(a) Enjoin the violation or threatened violation of a requirement established by or adopted by the Commissioners Court under these Regulations; and

(b) Seek civil or criminal penalties as provided by law; and

(c) Take all actions or seek any penalty authorized under law, including the penalties and enforcement provisions of Chapters 341 and 366 of the Texas Health and Safety Code, Chapter 26 of the Texas Water Code and 30 TAC Chapter 285.

SECTION 15. SEVERABILITY.

It is hereby declared to be the intention of the Commissioners Court of Hays County, Texas,

12

that the phrases, clauses, sentences, paragraphs, and sections of this Order are severable, and if any

phrase, clause, sentence, paragraph, or section of this Order should be declared unconstitutional by the

valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect

any of the remaining phrases, clauses, sentences, paragraph, or sections of this Order, since the same

would have been enacted by the Commissioners Court without incorporation in this Order of such

unconstitutional phrases, clause, sentence, paragraph or section.

SECTION 16. RELINQUISHMENT OF ORDER.

If the Commissioners Court of Hays County, Texas, decides that it no longer wishes to regulate on-site sewage facilities in its areas of jurisdiction, the Commissioners Court shall follow the

procedures outlined below:

(a) The Commissioners Court shall inform the Texas Natural Resource Conservation

Commission by certified mail at least thirty (30) days before the published date of the public hearing

notice that it wishes to relinquish its On-Site Sewage Facility Order.

(b) The authorized agent shall post the required public notice in a newspaper regularly published or circulated in the area of jurisdiction at least thirty (30) days prior to the anticipated date of action by the authorized agent.

(c) The authorized agent shall send a copy of the public notice, a publisher's affidavit of public notice, and a certified copy of the minutes to the Texas Natural Resource Conservation Commission.

(d) The executive director shall process the request for relinquishment and may issue an order relinquishing the authority to regulate OSSF's within the authorized agent's jurisdiction or may refer the request to relinquish to the Commission.

(e) Prior to issuance of a relinquishment order the local governmental entity and the executive director shall determine the exact date the authorized agent would surrender its authorized agent designation to the executive director.

SECTION 17. EFFECTIVE DATE.

This Order shall be in full force and effect from and after its date of approval as required by law

and upon the approval of the Texas Natural Resource Conservation Commission.

CHAPTER 745 – USE OF COUNTY PROPERTIES OR FACILITIES

Sub-Chapter §1 - Preamble and Purpose

§1.01 Preamble

The Commissioners Court of Hays County has the authority and obligation to exercise general control over County properties and/or facilities. The Department is directed to implement the following regulations regarding the use of County properties or facilities.

← Formatted: Bullets and Numbering

§1.02 Purpose

These regulations govern certain activities and improvements within or on certain County properties or facilities. Approval of the Commissioner’s Court is required for any of the activities or improvements identified associated with any of the designated County properties or facilities.

← Formatted: Bullets and Numbering

§1.03 County Property and Facilities Regulated

These regulations govern all real property owned or operated by the County or held in trust for the public, including but not limited to:

← Formatted: Bullets and Numbering

- (a) Real property owned by the County or any subdivision of the County;
- (b) Public roadways, rights-of-way, easements of all kinds and types;
- (c) Facilities and structures that occupy real property and are owned or operated by the County;

§1.04 County Property and Facilities Excluded

These regulations do not apply to County owned properties or facilities wholly under the operational control of the United States of America, the State or Texas, a political subdivision of the State of Texas, or a special district or entity established by the Texas Legislature.

← Formatted: Bullets and Numbering

Sub-Chapter §2 - Activities and Improvements

§2.01 Construction or Land Disturbance

Approval of the Commissioners Court is required prior to conducting any construction or land disturbance on, in, above, or under any designated County Property.

← Formatted: Bullets and Numbering

§2.02 Temporary Structures or Facilities

Approval of the Commissioners Court is required prior to placing any temporary structures or facilities on, in, above, or under any designated County Property.

← Formatted: Bullets and Numbering

§2.03 Permanent Structures or Facilities

Approval of the Commissioners Court is required prior to placing any permanent structures or facilities on, in, above, or under any designated County Property.

§2.04 *Exceptions for Emergency Conditions*

Formatted: Bullets and Numbering

Prior approval of the Commissioners Court is not required for use of designated County property for activities conducted by authorized law enforcement, public safety and emergency services agencies and officers operating within the scope of their duties during an emergency condition. Notice of such use by authorized law enforcement, public safety and emergency services agencies and officers shall be provided to the County as soon as possible. All non-emergency use of designated County property by law enforcement, public safety and emergency services agencies and officers shall require prior approval of the Commissioner’s Court.

Sub-Chapter §3 - Application Procedures

Formatted: Bullets and Numbering

§3.01 *Fees*

The Commissioners Court shall establish Application and/or recurring usage fees for Applicants requesting use of designated County property. Application fees shall be paid at the time the Application is filed. Where established by the Commissioner’s Court, recurring usage fees shall be paid by the Applicant or assignee on the schedule identified by the Commissioner’s Court.

§3.02 *General Application Processing*

Formatted: Bullets and Numbering

Applications for use of designated County property shall be processed in accordance with the procedures outlined Chapter §701 of these Regulations, including both administrative and technical review. Final action on an Application shall be made by the Commissioners Court.

§3.03 *Additional Information Required*

Formatted: Bullets and Numbering

In addition to the information required by §701.7, the Applicant shall submit the following information with the Application:

- (a) the type of use or activity for which approval is being requested;
- (b) the name, designation and type of designated County property for which use is being requested;
- (c) the specific location on or within the designated County property for which use is being requested; and,
- (d) any additional information necessary for the Department to review the application for compliance with these regulations.

Formatted: Bullets and Numbering

§3.04 *Communication with Precinct Commissioner*

The Applicant or the Applicant’s authorized agent is required to contact the Commissioner(s) in whose precinct(s) the designated County property is located prior to the submission of the Application.

Sub-Chapter §4 - General Requirements for Use

Formatted: Bullets and Numbering

§4.01 Reasonable Use

Applications for use of designated County property shall be a reasonable use of public property and shall not preclude the reasonable use of the remaining portion of the designated County property.

Formatted: Bullets and Numbering

§4.02 In the Public Interest

Applications for use of designated County property shall be in the public interest as determined by the Commissioners Court. The provision of public utilities and services shall be deemed to be in the public interest.

Formatted: Bullets and Numbering

§4.03 Public Health, Safety, and the Environment

Applications for use of designated County property shall not pose a threat to public health, safety, welfare or the environment. Applicants shall for use of designated County property bear the burden of demonstrating that the proposed activities or improvements are protective of public health, safety, welfare and the environment. The Commissioners Court may include such reasonable restrictions on the authorized use as it deems appropriate to public health, safety, welfare or the environment.

Formatted: Bullets and Numbering

§4.04 Special Provisions

The Commissioners Court may incorporate reasonable special provisions into any use authorization to ensure compliance with these regulations, protection of the public interest, or protection of public health, safety, welfare and the environment.

Formatted: Bullets and Numbering

§4.05 Responsibility of the Applicant or Grantee

By submitting the Application, the Applicant or his designated assignee (hereinafter “Grantee”) agrees to be bound by the regulations in effect at the time the Application was submitted, including any special provisions incorporated by the Commissioner’s Court into a use authorization.

Formatted: Bullets and Numbering

§4.06 Responsibility for Permitted Use

Once approved, the Grantee shall hold harmless the County and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of the permitted use.

Formatted: Bullets and Numbering

§4.07 Responsibility for Improvements

Once approved and constructed, the Grantee holds title to and is responsible for all improvements placed on, in, above, or under any designated County Property. The Grantee is responsible for all costs associated with the installation, including operation, maintenance, upkeep, repair and replacement. At any time during which the improvement occupy or encumber designated County property, the County reserves the right to require any changes, maintenance or repairs as may be necessary to provide protection of life or property on or adjacent to the roadway.

§4.08 ***Responsibility for Permitted Use***

← - - - - - Formatted: Bullets and Numbering

Once approved, the Applicant or his designated assignee (hereinafter “Grantee”) shall hold harmless the County and its duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of the permitted use.

§4.09 ***Time Limits on Approval***

← - - - - - Formatted: Bullets and Numbering

Unless otherwise indicated with the approval documentation, use authorizations shall expire six (6) months from the date approved by the Commissioner’s Court if the authorized use has not commenced within that timeframe. Expired approvals are null and void and require a new Application prior to use, including application fees.

CHAPTER 751 – ECONOMIC INCENTIVES FOR DEVELOPMENT ACTIVITIES

Sub-Chapter §1 - Applicability

§1.01 General Requirements

Formatted: Bullets and Numbering

This Chapter shall govern economic incentives given by the County for development activities subject to the approval of the Commissioners Court.

§1.02 Qualifying Activities

Formatted: Bullets and Numbering

Subject to acceptance by the Commissioners Court, the following types of activities qualify for economic incentives in conjunction with development approvals issued by the Commissioners Court:

- (e) Construction of water quality ponds (must remove at least 80% nutrient and sedimentation load)
- (f) Rainwater collection facilities on amenities structures
- (g) Construction of recharge structures
- (h) Cedar eradication (joint County & USF&WS plan approval required)
- (i) Boundary street improvements (no more than 50% of total rebate)
- (j) Wastewater reuse plumbing to individual lots

Formatted: Bullets and Numbering

§1.03 Types of Economic Incentives

Subject to approval of the Commissioners Court, the following types of economic incentives are authorized:

- (a) Rebates on Application fees.
- (b) Rebates on Usage fees.
- (c) Ad valorem tax exemptions.
- (d) Fee-in-lieu contributions.

Formatted: Bullets and Numbering

Sub-Chapter §2 - Application of Economic Incentives By County

Subject to acceptance by the Commissioners Court, the following types of activities qualify for tax incentives in conjunction with development approvals issued by the Commissioners Court:

- (a) 50% of rebate may go to a dedicated fund for open space preservation and development mitigation.
- (b) \$100 of the County’s per lot portion will go the same dedicated fund.

Formatted: Bullets and Numbering

Sub-Chapter §3 - Rebate Application Process:

§3.01 *Filing with Application*

At the time of ~~the initial Application~~, the ~~Applicant~~ must identify all proposed projects for which ~~an authorized economic incentive~~ will be requested.

Formatted: Heading 2

Deleted: plating

Deleted: applicant

§3.02 *Design and Cost Estimate*

For any structural improvements for which the Applicant is requesting an economic incentive, the Applicant shall submit ~~a~~ design and cost estimate ~~prepared by a licensed professional engineer~~.

Deleted: rebate

Formatted: Bullets and Numbering

Deleted: An engineer's

Deleted: is required for all proposed structural improvements

§3.03 *Documentation*

All ~~economic incentive~~ requests, except donations to the Open Space Preservation Fund, must be accompanied by an invoice certifying actual expenditures

Formatted: Bullets and Numbering

Deleted: rebate

§3.04 *Inspection*

The ~~Applicant~~ must contact the County Engineer for inspection of all improvements for which ~~an economic incentive~~ is requested

Formatted: Bullets and Numbering

Deleted: applicant

Deleted: rebate

The format of the digital drawing shall be the ASCII version of a DXF file, and the file may be submitted to the County on 3.5" diskette, compact disc (CD), or via e-mail (in a compressed format). The digital file shall be projected to fit within the parameters of the Texas Stateplane Coordinate System, South Central Zone, NAD 83, in survey feet. A minimum of two GPS ground control point coordinates of said points shall be identified in the digital file. This paragraph does not constitute a comprehensive list of digital data requirements, and additional information may be obtained from the Environmental Health Department.